

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA                   \*       Case No. 17-CR-00281 (ERK)  
  \*  
  \*       Brooklyn, New York  
  \*       January 10, 2018  
  \*  
  \*  
CARLOS RICHARD MARTINEZ,                   \*  
  \*  
  \*       Defendant.  
  \*  
\* \* \* \* \*                                   \*

TRANSCRIPT OF CRIMINAL CAUSE FOR JURY TRIAL  
BEFORE THE HONORABLE EDWARD R. KORMAN  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:                       RICHARD P. DONOGHUE, ESQ.  
  UNITED STATES ATTORNEY

BY:   NICOLE M. ARGENTIERI, ESQ.  
      NADIA SHIHATA, ESQ.  
      Asst. United States Attorney  
      United States Attorney's Office  
      271 Cadman Plaza East  
      Brooklyn, NY 11201

For the Defendant:                       ANTHONY L. RICCO, ESQ.  
  20 Vesey Street  
  Suite 400  
  New York, NY 10007

Certified Interpreters:                   MS. ELIZABETH CARUSO  
  MS. JAN CALLOWAY

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1 (Proceedings commenced at 10:26 a. m.)

2 THE CLERK: United States v. Carlos Martinez.

3 (Judge enters the courtroom)

4 THE CLERK: Please be seated.

5 THE COURT: All right, could you come up for a  
6 minute?

7 THE CLERK: Counsel.

8 THE COURT: I don't want to get into a long  
9 discussion of it now, should you disagree with what I --

10 MS. ARGENTIERI: Judge, the witness is on the stand.

11 THE COURT: That's all right -- should you disagree  
12 with what I am about to say, I disagree with the line in Judge  
13 -- to the extent that it makes a difference, in line 4 -- on  
14 page 4, in which Judge Cogan said, "Defendant will not,  
15 therefore, be permitted to question Jane Doe about consent."  
16 That's wrong, in my view.

17 An element of the offense is use of violence. Now  
18 the government, as the case that Judge Cogan cited, may not  
19 have an obligation to prove that, the defendant certainly has a  
20 right to cross-examine. I don't know whether it makes any  
21 difference. I just wanted you to know. I don't want to have  
22 any discussion about it.

23 MS. ARGENTIERI: Judge, can I just grab the order  
24 really quickly?

25 THE COURT: If you took mine, you would see it

1 underlined. It's on page 4, line -- three lines from the  
2 bottom. It's only respect to his interrelationship with her.

3 MS. ARGENTIERI: Agreed.

4 THE COURT: It doesn't involve anybody else.

5 MS. ARGENTIERI: Agreed, Judge. Okay. That's  
6 agreed.

7 THE COURT: Okay. I just want to make sure that  
8 that's clear, that I -- --

9 MR. RICCO: Thank you for that.

10 MS. ARGENTIERI: Thank you, Judge. We appreciate  
11 that.

12 THE COURT: -- disagree with that.

13 MR. RICCO: Thank you very much.

14 THE CLERK: May I bring in the jury, Judge?  
15  
16  
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25

Direct - "Maria" - Shihata

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1 THE CLERK: All rise.

2 (Jury enters the courtroom.)

3 THE CLERK: We're waiting for you, ladies and  
4 gentlemen. Please be seated. The witness is still under oath.  
5 Ms. Shihata?

6 THE COURT: Do you understand you're still under  
7 oath?

8 THE WITNESS: Yes.

9 CONTINUED DIRECT EXAMINATION

10 "MARIA", Previously Sworn

11 BY MS. SHIHATA:

12 Q Good morning

13 A Good morning.

14 Q Now, when we were finishing up your testimony yesterday,  
15 you were testifying about a time that Lieutenant. Martinez  
16 raped you after sending Officer Smith away; is that correct?

17 A Yes.

18 Q Now, after Lt. Martinez was finished, what, if anything,  
19 happened?

20 A I went to the bathroom.

21 Q And why did you go to the bathroom?

22 A To get, again, to get his semen out of me.

23 Q And you -- and what specifically did you do?

24 A I pressed on my naval.

25 Q And what, if anything, did you do next?

Direct - "Maria" - Shihata

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- 1 A I washed myself off. I got water in my hand and -- I --  
2 uh-um -- got water so I could wash my privates.
- 3 Q Now, at some point did Officer Smith come back to the  
4 lieutenant's office area?
- 5 A Yes.
- 6 Q And where were you when that happened?
- 7 A In the bathroom.
- 8 Q And what, if anything, did you do -- at some point did you  
9 leave the bathroom?
- 10 A Yes.
- 11 Q And what, if anything, did you do next?
- 12 A Nothing. I don't even think I cleaned. I didn't even  
13 clean that day.
- 14 Q You mean after the rape?
- 15 A Yes.
- 16 Q Who took you back to your unit that day, if you recall?
- 17 A Officer Smith.
- 18 Q Did you tell Officer Smith what happened?
- 19 A No.
- 20 Q Why not?
- 21 A No, because Officer Smith was another one who was under his  
22 command.
- 23 Q Under whose command?
- 24 A Lt. Martinez.
- 25 Q And what about that made you not want to tell him?

Direct - "Maria" - Shihata

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1 A I didn't tell anybody. I just wanted to -- the time to end  
2 and I wanted to get out of that hell hole. That's all I wanted  
3 to do.

4 Q Now, do you recall exactly when this incident happened?  
5 The one you testified about at the end of your testimony  
6 yesterday and that we've started with here this morning?

7 A No.

8 Q Do you remember if your friend, Melva Vasquez, was still at  
9 the MDC when this happened?

10 A No, she had already left.

11 Q And do you remember if your friend, Kiara Maldonado, was  
12 still at the MDC?

13 A No, she had left as well.

14 Q Now, just to be clear, between the first time Lt. Martinez  
15 raped you, which you testified about yesterday, and the  
16 incident when he raped you when Officer Smith -- when he sent  
17 Officer Smith away, did Lt. Martinez rape you between those two  
18 incidents?

19 A Yes.

20 Q And did he rape you again after the incident where he sent  
21 Officer Smith away?

22 A Yes.

23 Q Now, you testified yesterday that you couldn't recall  
24 exactly how many times Lt. Martinez raped you; is that correct?

25 A Yes.

Direct - "Maria" - Shihata

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- 1 Q Was it more than five times?
- 2 Q Yes.
- 3 Q Was it at least ten times?
- 4 A At least.
- 5 Q And what days of the week would this happen on?
- 6 A Friday, Saturday and Sunday.
- 7 Q And each time Lt. Martinez raped you, what room did it
- 8 happen in?
- 9 A The lieutenant's office.
- 10 Q And each time that it happened, was anyone else in the
- 11 lieutenant's office with you and Lt. Martinez?
- 12 A No.
- 13 Q Each time he raped you, what part of your body did he
- 14 penetrate?
- 15 A My vagina.
- 16 Q And each time he raped you, what did he penetrate your
- 17 vagina with?
- 18 A With his penis.
- 19 Q How would he expose his penis to you?
- 20 A It was -- uh-um -- through his zipper because he never took
- 21 off his pants.
- 22 Q What, if anything, did he have on his -- the belt of his
- 23 pants?
- 24 A All of his keys.
- 25 Q Did the keys make a sound when he raped you?



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1 A Yes.

2 Q Now, apart from the last time he raped you, which we'll get  
3 to later, what position were you in when Lt. Martinez raped  
4 you?

5 A I was either on the desk or I was on the desk with my chest  
6 pressed on the desk, or on this side of the desk, over here  
7 (indicating).  
8 He always had to keep his eye on the computer.

9 Q I'm showing you what's in evidence as Government's Exhibit  
10 103-C. Is this the desk you're referring to?

11 A Yes.

12 Q And you said he always had to keep his eye on the computer.  
13 What was on the computer?

14 A The -- uh-um -- squares with the images of the 2nd floor.  
15 They were like 9 or 12 boxes.

16 Q And are you referring to the security camera footage?

17 A Yes.

18 Q Now, you said you were either positioned on the desk; is  
19 that right?

20 A Yes.

21 Q What part of your body was on the desk when it was that  
22 way?

23 A Like, from the waist up, like this part, my chest  
24 (indicating).

25 Q Your chest?

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1 A Yes.

2 Q Face forward?

3 A Yes.

4 Q And where was Martinez when he was -- Lt. Martinez when he  
5 was raping you?

6 A He was behind me.

7 Q Okay. And you mentioned a second position; is that  
8 correct?

9 A Yes.

10 Q What was that?

11 A Like, with my head down. When I was here, when I had my  
12 chest there, sometimes he would move here and he would, like,  
13 put my head here (indicating).

14 Q Now, you've made some markings on Government's Exhibit 103-  
15 C. So he would move you to the side of the desk; is that  
16 correct?

17 A Next to the desk.

18 Q And then, what, if anything, would he do with your body?

19 A He would keep on penetrating me, grabbing me.

20 Q And you said earlier --- you testified earlier, how about  
21 this. Can you just stand up for a moment and demonstrate for  
22 the jury what position you were in? I'm sorry, I know it's  
23 difficult (witness demonstrating).

24 A He would position me like this, grabbing me by here. Like  
25 pulling me toward him (indicating).

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1 Q By your shoulders?

2 A Yes, by my shoulders. He would like bear his -- dig his  
3 fingers into my shoulders.

4 Q Okay. And when he would position you differently, can you  
5 show the jury how he did that?

6 A It was like this, that he move me over here but my head  
7 was down like that and then in that case he would grab me here  
8 (indicating).

9 Q And continue penetrating you from behind?

10 A Yes.

11 Q Each time this happened, were you scared?

12 A Yes.

13 Q And any of the times that this happened, did you want to  
14 have his penis inside of you?

15 A No.

16 Q Now, I'd like to direct your attention to January, 2016.  
17 Was there an incident when you were in the lieutenant's office  
18 with Lt. Martinez? When you hit him?

19 A Oh, yes.

20 Q So now that you have that day in your mind, do you recall  
21 to the best of your recollection whether you went to the second  
22 floor that day alone or with another inmate?

23 A I went with another inmate.

24 Q Who?

25 A Odis de la Cruz.

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1 Q I'm showing you what's in evidence as Government's  
2 Exhibit 8. Is that Odis de la Cruz?

3 A Yes.

4 Q And did an officer escort you and Odis de la Cruz to the  
5 2nd floor that day?

6 A Yes.

7 Q Did that officer stay or leave?

8 A The officer left.

9 Q And where did the officer leave you and Odis de la Cruz?

10 A At the entrance to the lieutenant's office.

11 Q And what, if anything, happened after the officer left?

12 Well, actually, before I ask you that. Who, if anyone, was in  
13 the lieutenant's office when you arrived there?

14 A Lt. Martinez.

15 Q And what, if anything, happened after the officer who  
16 escorted you left?

17 A I went to take the trash out of two cans that were outside  
18 of the outside. And I checked to see whether or not the dental  
19 clinic was open but it was locked.

20 Q Okay. I'm showing you what's in evidence as Government  
21 Exhibit 101-D. Is this the area where you went to change the  
22 garbage?

23 A Yes.

24 Q And --

25 A To take -- to take the trash out?

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1 Q To take the trash out?

2 A Yes.

3 Q Okay. And where -- where in this photograph were you  
4 describing?

5 A There are two trash cans there and that's another one.

6 Q Okay. And you made some markings on Government Exhibit  
7 101-D, did you make a marking by the blue -- the blue can in  
8 the photograph?

9 A Yes.

10 Q And the day you're talking about, was there another garbage  
11 or trash receptacle next to that?

12 A Yes.

13 Q And when you -- did you -- so you had to -- is this all  
14 outside of the lieutenant's office area?

15 A Yes.

16 Q And when you left the lieutenant's office area to come  
17 here to this hallway, where was Odis de la Cruz when you left?

18 A At the entrance, right at the lieutenant's office. Not in  
19 the office, at the door, in the entrance.

20 Q I'm showing you what's in evidence as 102, Government  
21 Exhibit 102-A Can you point out where the entrance to the  
22 lieutenant's office is in this photograph?

23 A Here (indicating).

24 Q And for the record, you've made a mark on the exhibit on  
25 the door with the small trash can outside of it; is that

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1 correct?

2 A Yes.

3 Q Now, showing you Government Exhibit 101-D again, what, did  
4 you do after dealing with the trash cans?

5 A So, go to check. So right opposite here is the door to the  
6 dental clinic. So I checked to see if it was unlocked or not,  
7 so I could go in and clean.

8 Q And what -- can you see where the dental -- the entrance to  
9 the dental clinic is on this photograph?

10 A Not really because it's actually right here. Because this  
11 leads to another office.

12 Q Okay. So when you said "right here", you made a mark on  
13 Government Exhibit 10-1D, at the very right edge of the  
14 photograph; is that correct?

15 A Yes.

16 Q And what, if anything, did you notice when you checked if  
17 the dental clinic was open?

18 A It was locked.

19 Q What, if anything, did you do after checking the door of  
20 the dental clinic?

21 A I went to the lieutenant's office and I stood at the door,  
22 right at the door with Odie.

23 Q Was Odie still there?

24 A Yes.

25 Q I'm showing you Government Exhibit 102 again -- 102A again.

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1 What happened after you got to the door of the lieutenant's  
2 office?

3 A They were talking, I said, "Excuse me. Martinez, can you  
4 go to control and get the keys to the dental clinic so I can  
5 clean it?"

6 Q Wait, who said that?

7 A He said -- I did, I asked him.

8 Q What happened next?

9 A He said, "Oh, no, I can't." So I said to him, "Yes you  
10 can." He said, "No, no I can't, I can't go to control." And  
11 then I said to him again, "Yes, you can because -- because  
12 sometimes Officer Smith goes to control, gets the key, comes  
13 back so we can go in there and clean." "You're a lieutenant,  
14 you can do it." Then he said to me, "No, I can't." And I  
15 said, "duh" so I left.

16 Q And why did you want to clean the dental clinic that day?

17 A Because I didn't want to be there, I didn't want to clean  
18 the office, I didn't want to clean the bathroom.

19 Q Which office didn't you want to clean?

20 A The lieutenant's office.

21 Q Why?

22 A Because I didn't. Because -- I knew that once I started  
23 cleaning in the office I was going to be raped again. That's  
24 what would happen.

25 Q Now, you said after Lt. Martinez refused to -- to get the

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1 dental clinic opened, you left. Where did you go?

2 A I went to the small room there. You can get water there.

3 A very small room. It's outside. The mops are kept there and

4 you dump your water there and you get new water.

5 Q So you mean water for cleaning?

6 A Yes.

7 Q I'm showing you what's in evidence as Government Exhibit

8 101-D. Is the room you're referring to depicted in this

9 photograph?

10 A Yes.

11 Q Which room is it?

12 A This one.

13 Q And for the record, you've made a marking on Government

14 Exhibit 101-D, in the middle -- on the door in the middle that

15 looks like it has a phone on the wall next to it; is that

16 correct?

17 A Yes.

18 Q And what, if anything, happened after you went to that

19 room?

20 A Well, I got that ready. I got that ready.

21 Q Got what ready?

22 A The bucket. The bucket you put water in so you can mop.

23 Q And what did you do next?

24 A Then I went in here, into the other area here

25 (indicating).



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1 Q What is that?

2 A The door that leads to the lieutenant's area.

3 Q I'm showing you what's in evidence as Government Exhibit  
4 102-B. Is the lieutenant's area -- the area outside the  
5 lieutenant's office, is that what you're referring to?

6 A Yes.

7 Q And is the door with the exit sign above it, is that the  
8 door that you enter through?

9 A Yes.

10 Q What happened next?

11 A Well, at this point Odie had finished talking to him and  
12 she said, hey, I'm going to the legal area to clean there you  
13 clean here.

14 Q Who said that?

15 A She wanted me to clean here. Odis de la Cruz.

16 Q And where is the legal area that she said she was going to  
17 clean?

18 A So it's the same hallway at the entrance. It's long, so  
19 all the way at the end, that's where the legal area is.

20 Q I'm showing you what's in evidence as Government Exhibit  
21 101-C. Is this the hallway you're referring to?

22 A Yes.

23 Q And in which direction, if you know, is the legal  
24 department?

25 A This way (indicating).

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1 Q So in the direction away from the door that we're looking  
2 at in the picture?

3 A Yeah, you can see it.

4 Q Okay. The other end of the hallway?

5 A Yes.

6 Q And what, if anything, happened after Odis de la Cruz left  
7 to go to that -- to the legal department area?

8 A I continued -- I started sweeping the hall --

9 Q Sorry, just to stop you for a moment. I'm showing you  
10 Government Exhibit 102-B. This is the -- is this the area  
11 where Odie left you?

12 A Yes.

13 Q And you said you swept, what area did you sweep?

14 A This area (indicating).

15 Q And for the record you made a marking on Government  
16 Exhibit 102-B in the area in front of the sofa; is that  
17 correct?

18 A Yes.

19 Q What, if anything, happened next?

20 A I picked up the bucket with the mop and put it out here  
21 (indicating) in front of the office, because that was the first  
22 thing we always had to clean.

23 Q In front of which office?

24 A The lieutenant's office.

25 Q Showing you what's in evidence as Government Exhibit

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1 102-A Again, is the lieutenant's office where I'm pointing, the  
2 doorway with the small trash can in front of it?

3 A Yes.

4 Q What happened after you left the mop there?

5 A I went in.

6 Q You went in where?

7 A The lieutenant's office.

8 Q What happened -- was anyone inside?

9 A Yes.

10 Q Who?

11 A Lt. Martinez.

12 Q What happened after you went inside?

13 A I went in to get the sprays, which that woman, the one who  
14 thought she was buying it with her money, and she kept them  
15 here (indicating) --

16 Q Kept them where?

17 A Like under the desk?

18 Q And who is the woman you're referring to?

19 A A lieutenant. I don't know her name. I just know she's  
20 tall, black.

21 Q Showing you Government Exhibit 103-C. Where was it that  
22 this female lieutenant was keeping certain cleaning sprays?

23 A Down here (indicating).

24 Q And for the record you've made a mark on Government  
25 Exhibit 103-C in the area beneath the printer; is that correct?

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- 1 A Yes
- 2 Q Is that the area you went to?
- 3 A Yes. I was thinking about going there.
- 4 Q Well, did you go there; did you start walking towards
- 5 there?
- 6 A Yes.
- 7 Q And where was Lt. Martinez?
- 8 A Sitting in his chair.
- 9 Q Is that the black chair in this photograph?
- 10 A Yes.
- 11 Q And what, if anything, happened as you walked to the area
- 12 where the cleaning supplies were?
- 13 A I was walking along, he was sitting, so when I walked
- 14 here, I was about here (indicating).
- 15 Q Can you use the photograph, because otherwise it's not
- 16 clear. I'm sorry.
- 17 A So I was walking.
- 18 Q Where were you walking?
- 19 A Over here (indicating).
- 20 Q So you -- for the record you've made a mark on Government
- 21 Exhibit 103-C to the right side of the desk in the photograph?
- 22 A Yes.
- 23 Q Where did you go next?
- 24 A I had to turn, so going behind him.
- 25 Q So, for the record you've made another mark on Government

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1 Exhibit 103-C turning left behind the chair, behind the desk;  
2 is that correct?

3 A Yes.

4 Q What happened next?

5 A Well, that's where he stuck out his arm.

6 Q Who stuck out his arm?

7 A Lt. Martinez.

8 Q What happened?

9 A I pushed it down. He put up his arm I pushed it down, but  
10 then he stuck it up again. He stuck it out and he kind of  
11 pulled me towards him and that's when I did this to him. I did  
12 this to him, (indicating) to the back of him because he was  
13 still sitting.

14 Q And you said you did this to him, what -- can you describe  
15 in words what you did?

16 A I hit him.

17 Q You hit him with your hand?

18 A Yes.

19 Q And what part of his body did you hit?

20 A His head.

21 Q And just so the record is clear, before you hit him you  
22 said he stuck his hand out or his arm out; is that correct?

23 A Yes.

24 Q And was he blocking your way to go get the cleaning  
25 supplies?

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1 A Yes.

2 Q And also just to be clear, this chair behind the desk is  
3 it the type of chair that swivels?

4 A Yes.

5 Q Now, you said after he put his hand out to block your way  
6 you pushed it down; is that correct?

7 A Yes.

8 Q And then he put it back?

9 A Yes.

10 Q And what happened after he put it back?

11 A He tried to pull me towards him.

12 Q And that's when you hit him?

13 A Yes.

14 Q Why did you hit him?

15 A Because I didn't want him to grab me. I didn't want him  
16 to rape me again. I was so tired of the same thing happening  
17 over and over and over again.

18 Q What happened after you hit him?

19 A He stood up, he said you know how much time you could get  
20 for hitting a lieutenant don't you.

21 Q What happened -- was he angry?

22 A Yes.

23 Q What was the tone in his voice?

24 A The way he would talk to me when he would turn into a pig,  
25 because he's a damn pig, when he gets pissed off he acts like a

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1 pig.

2 Q What happened after he said do you know how much time you  
3 could get for hitting me?

4 A I said to him yeah.

5 Q What happened next?

6 A Then he grabbed me started to grope me. He turned me  
7 around he grabbed my arm, this arm (indicating).

8 Q Which arm?

9 A My right arm.

10 Q What did he do with your arm?

11 A He twisted it behind me and he was raising it up. I said  
12 you son of a bitch it hurts, but he let go of it. When I told  
13 him it hurt when he had it high up he let go of it.

14 Q Where were you in the room when this was going on?

15 A Here (indicating).

16 Q Okay. And for the record you've made a marking on  
17 Government Exhibit 103-C in the area of the desk on the right  
18 side; is that correct?

19 A Yes.

20 Q And when he had his -- when he had your arm behind you,  
21 what position were you in?

22 A At that point I was -- when he grabbed my arm I was still  
23 standing. When he raised it up, when it was hurting me I was  
24 here (indicating).

25 Q You were where?

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- 1 A On the desk, at the corner of the desk.
- 2 Q Was your chest face down on the desk?
- 3 A Yes.
- 4 Q What happened next?
- 5 A He started -- he continued to grope me.
- 6 Q What do you mean by that?
- 7 A Putting his hands in my vagina.
- 8 Q Touching your vagina?
- 9 A Forcing my vagina. It was hard with my pants on, so he
- 10 was pressing in hard with his fingers.
- 11 Q What happened next?
- 12 A By then he had let go of arm.
- 13 Q What happened next?
- 14 A That's it, he lowered my pants did it and finished.
- 15 Q What did he do when he lowered your pants?
- 16 A Penetrated me.
- 17 Q Where did he penetrate you?
- 18 A In my vagina.
- 19 Q What did he penetrate you with?
- 20 A With his penis.
- 21 Q How did you feel while this was going on?
- 22 A Horrible. At that point I was so, so tired. There was
- 23 nothing for me to do at that point. So at that point I would
- 24 say to him no, you know, the Chaplain is next door and he would
- 25 stand up, he would go and he would knock, he'd say no, he's not



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1 there.

2 Q Okay. We'll get to that in a moment. I want to focus  
3 just on this day, okay, this day that we were just talking  
4 about. Were you scared?

5 A Yes.

6 Q Did Lt. Martinez force you to have sex with him that day?

7 A Yes.

8 Q Did you want to have his penis in your vagina that day?

9 A No.

10 Q Did you feel like you had any choice about that?

11 A No.

12 Q Did you see the computer screen that day?

13 A Yes.

14 Q What, if anything, was on it?

15 A When he was there.

16 Q When he was where?

17 A When he was -- when he was penetrating me, behind me he  
18 said wait a minute, he got the keyboard, this keyboard  
19 (indicating) and he got the computer to show only one.

20 Q Only one what?

21 A One -- just one camera. There were lots of boxes, but he  
22 only focused on one, which is where Odie was cleaning all the  
23 way in the back in the legal department.

24 Q Did he say anything?

25 A He said no, no, no, it's okay.

Direct - "Maria" - Shihata

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1 Q What, if anything, happened after Lt. Martinez finished?

2 A I went into the bathroom, I locked myself in there,  
3 started pressing down on my naval.

4 Q The same way you described before?

5 A Yes.

6 Q What happened next?

7 A So then Odie came back.

8 Q Came back where?

9 A From the legal department. She had finished back there.

10 Q And where did she come back to?

11 A The area where the door to the lieutenant's office was and  
12 where the bathroom was.

13 Q Showing you what's in evidence as Government Exhibit 102-A  
14 Is this the area you're referring to?

15 A Yes.

16 Q What happened next?

17 A Well, she saw that I hadn't cleaned anything, so she said  
18 you haven't finished yet and I said no, and so she started to  
19 help me.

20 Q To help you do what?

21 A To clean.

22 Q And at some point did an officer escort you and Odis de la  
23 Cruz back to the second floor -- I mean, to the -- to your unit  
24 on the sixth floor?

25 A Yes.

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1 Q Now, other than the incident you just described where you  
2 hit Lt. Martinez what, if any, other steps did you take to try  
3 to make Lt. Martinez stop raping you?

4 A I called a friend of mine, I called another friend of mine  
5 a thousand times, but he didn't come to visit me. But another  
6 friend of mine, I did call him and he did come to visit me.

7 Q Okay. And who the friend you called that did come to  
8 visit?

9 A Noel Lopez.

10 Q And why did you call Noel Lopez?

11 A So that he would come to visit me.

12 Q Why was that important to you?

13 A Because that bastard said to me, oh, they love you so much  
14 that they never even come to visit you. I hadn't even had one  
15 visit.

16 Q Who said that to you?

17 A Lt. Martinez.

18 Q And why did you want Noel Lopez to visit you?

19 A So that he would see that I had one person at least.

20 Q So that who would see that?

21 A Lt. Martinez.

22 Q And did Noel Lopez visit you at the MDC?

23 A Yes.

24 Q How did you let him know -- how did you let Noel Lopez  
25 know that you wanted him to visit you?

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1 A I called him and I asked him to come visit me.

2 Q Now, was Noel Lopez someone on your phone list?

3 A Yes.

4 Q And sitting here today, do you remember what his number  
5 was?

6 A Well -- oh, gosh. I know it's 203-736, I don't remember  
7 the rest of it.

8 Q So the area code was 203?

9 A Yes.

10 Q And at the MDC what is the process for being able to have  
11 someone come visit you?

12 A You have to fill out -- you have to send a form to the  
13 person. The person has to fill out the form and send it back,  
14 send it to the jail, to the counselor and the counselor has to  
15 approve it. And then she'll let me know if the person has been  
16 approved or not.

17 Q And was Noel Lopez approved?

18 A Yes.

19 Q And did he come visit you?

20 A He came right away, yes.

21 Q What do you mean by right away after he had been approved?

22 A Yes, I let him know, listen, they approve you and he came  
23 the next day.

24 Q And was -- do you recall -- the visiting room where you  
25 met with Noel Lopez, was that in the same building as your unit

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1 or in a different building, if you recall?

2 A I don't remember. I don't know I should say.

3 Q Okay. Do you recall what the visiting room looked like?

4 A When the person came in an officer -- they're like small  
5 areas where you take off your clothes and the officer has to  
6 search you.

7 Q That's before you go in the visiting room?

8 A Yes.

9 Q Okay. All right. What I'm asking you is just what does  
10 the visiting room itself look like?

11 A It's square with two tables, two long tables. The persons  
12 whose visiting you has to be on one side and you're on the  
13 other side. And then there's like a desk with two officers  
14 standing there to the left. And to the right, the vending  
15 machines are to the right and you can buy sandwiches, soda and  
16 there's bathrooms.

17 Q Are there any rules about contact with visitors that come  
18 to see you?

19 A Yes.

20 Q What are the rules?

21 A Only a kiss and a hug are permitted when the person  
22 arrives and when the person leaves.

23 Q And when you say "the person," you mean the visitor?

24 A Yes.

25 MS. SHIHATA: One moment, your Honor.

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1 Q Now what, if anything, did you ask Noel Lopez to do when  
2 he came to visit you in the visiting room?

3 A I asked him to kiss me.

4 Q To kiss you where?

5 A On the lips.

6 Q And did he kiss you on the lips?

7 A Yes, and I did, too.

8 Q And why did you ask him to do that?

9 A So that Martinez would see that.

10 Q And what, if anything, were you hoping would happen if  
11 Martinez -- if Lt. Martinez saw that?

12 A I thought he would stop.

13 Q Stop what?

14 A Stop raping me.

15 Q And how did you think Lt. Martinez would see that kiss?

16 A Because there were cameras all over the place and he could  
17 see the entire building.

18 Q Was there a camera in the visiting room?

19 A A lot of cameras.

20 Q Now after Noel Lopez came to visit you, did Lt. Martinez  
21 stop?

22 A No.

23 Q What, if anything, happened?

24 A It got worse.

25 Q How?

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1 A Because he kissed because -- it got worse. He would grab  
2 me. He would kiss me like, "Well, if that's what you want,  
3 I'll kiss you."

4 Q Who said that?

5 A Lt. Martinez.

6 Q Did he say anything else to you?

7 A Not that I recall.

8 Q Did Lt. Martinez ever make any comments to you about  
9 seeing you outside of prison?

10 A Yes.

11 Q What do you recall him saying?

12 A He would say that it would be -- that it was different.  
13 That he was different.

14 MS. SHIHATA: I'm sorry, I just want to make sure  
15 that -- hold on one second.

16 Q Just so there's no confusion, what did he say?

17 A He would say to me that he was different. That he wasn't  
18 like that. That when I got out, that he would -- that I would  
19 be able to see that he wasn't like that.

20 MS. SHIHATA: Your Honor, this may be a good point  
21 for a break, if we're going to take one this morning.

22 THE COURT: All right. Let's take a short break.

23 THE CLERK: All rise.

24 (Jury exits.)

25 THE COURT: Everybody can sit down.

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1 (Recess from 11:39 a.m. until 11:55 a.m.)

2 (Jury enters courtroom.)

3 THE CLERK: Please be seated.

4 CONTINUED DIRECT EXAMINATION

5 "MARIA"

6 BY MS. SHIHATA:

7 Q Now when we left off, you were testifying about how things  
8 got worse after Noel Lopez came to visit you, is that correct?

9 A Yes.

10 Q Did you discuss with Lt. Martinez, the fact that Noel  
11 Lopez has visited you?

12 A No.

13 Q What, if anything, did he say to you about it

14 A Did I want to be kiss? "Is that what you want? Do you  
15 want to be kissed?"

16 Q And that was something he said to you after the visit with  
17 Noel Lopez?

18 A Yes.

19 Q And --

20 A Because it's what I asked Noel to do when I was talking to  
21 him on the phone.

22 Q Okay. And you also asked him to do that when he arrived  
23 at the visit, is that correct?

24 A Yes.

25 Q Now before the break, you were testifying that Lt.



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1 Martinez said he would be different, is that correct?

2 A Yes.

3 Q And did he say how he would be different or what he would  
4 do?

5 A No, he just said to me, "You'll see. When you get out,  
6 you'll see I'm different. I'm not like that."

7 THE CLERK: Counsel, could you move the mic over?

8 MS. SHIHATA: Sure, sorry.

9 Q Did he say what, if anything, he would do when you were  
10 out of prison?

11 A No, or -- he would say to he -- he was different. When I  
12 got out, I should get in touch with him.

13 Q Did he provide you with any contact information for him?

14 A Yes.

15 Q What did he provide you with?

16 A His email address.

17 Q Do you recall what email address he provided you with?

18 A Yes.

19 Q What was it?

20 A CarlosRichMartinez@ and I don't remember if it was Gmail  
21 or Hotmail because he said it to me and then he went to another  
22 office, he said, "Remember, it's like Rich in English."

23 Q So is the word for Rich in Spanish, "Rico?"

24 A Yes.

25 Q And so your -- to the best of your memory, the email

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1 address he gave you was CarlosRichMartinez@ either Gmail or  
2 Hotmail.com, you don't remember which?

3 A Yes.

4 Q Did you have any desire to be in contact with Lt. Martinez  
5 outside of prison?

6 A No. In fact, when he was telling it to me in the office  
7 when he wanted me to write it down -- to be exact, on one of  
8 these --

9 Q And are you --

10 A -- pieces of paper?

11 Q -- holding up a Post-It?

12 A Yes.

13 Q Continue.

14 A I said to him, "When I get out of here, I don't want to  
15 hear from anybody and certainly not you. You are the last one  
16 I want to hear from when I get out." And that's why he went to  
17 another office and said it out to me.

18 Q Now you do know someone named Larihelys Vargas?

19 A Yes.

20 Q How do you know her?

21 A She is -- we went to school together. We worked together.  
22 She's my friend.

23 Q And that was -- you knew her from before you went to  
24 prison, is that correct?

25 A Yes.

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1 Q She's not someone who is in prison with you, correct?

2 A No.

3 Q And did you call Larihelys Vargas when you were at the  
4 MDC?

5 A Yes.

6 Q Was she someone you had on your phone list?

7 A Yes.

8 Q And directing -- when you make a phone call as an inmate  
9 at the MDC, is the call recorded?

10 A Yes, of course.

11 Q And how do you know that?

12 A Because the machine tells you this is being recorded.

13 Q Now I would like to direct your attention to February of  
14 2016. Did you make a phone call to Larihelys Vargas around  
15 that time?

16 A Yes.

17 Q And did you ask her to do anything on that phone call?

18 A Yes, but it was before February. It was at the end of  
19 January.

20 Q Okay. To the best of your recollection, that's when it  
21 was?

22 A Yes.

23 Q And what did you ask your friend, Larihelys Vargas to do  
24 on that phone call?

25 A I called her and I said, "Hon, do you have your iPad right

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1 there?" She said, "Yes." I said, "Okay. Get on Facebook.  
2 Delete me. And look up this person."

3 Q Who did you ask her to look up?

4 A Lt. Martinez.

5 Q And do you recall how you asked her to look him up?

6 A Yes. I said CarlosRichMartinez@gmail or Hotmail. I don't  
7 remember. I think it as maybe Hotmail. I don't remember which  
8 one it was. But I gave it to her exactly as how it was and she  
9 found it immediately.

10 Q Okay. You gave her the name CarlosRichMartinez?

11 A Yes.

12 Q And why did you do that?

13 A So he would hear it. So he would know that I was saying  
14 his name on the phone.

15 Q So who would hear it?

16 A Lt. Martinez.

17 Q Why was that important to you?

18 A So he would leave me alone.

19 Q To your knowledge, did Larihelys Vargas look Lt. Martinez  
20 up on Facebook?

21 A Yes.

22 Q And did you ask Larihelys Vargas to do anything once she  
23 got on Lt. Martinez's Facebook page?

24 A Yes. She said "Yeah, he works at some kind of army  
25 thing." That's what she said. And I said, "Yes, he's a boss

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1 here." And she said, "Oh." And she described some of the  
2 photographs he had on there.

3 Q And do you recall any of the photographs that she  
4 described to you from Lt. Martinez's Facebook page?

5 A She said, "Oh, well here's one of him with a little girl.  
6 There's a small tree." So I said to her, "Yeah, that's  
7 probably his daughter. She's very young. He told me he lives  
8 with her." And a puppy. And there was another one of a place  
9 where you go shooting, like shooting range, something like that  
10 with a lot of people, friends. And another one, and she said  
11 to me, "Here's one of him with a peroxide blonde."

12 Q Meaning what? With a woman, is that what you mean?

13 A Yes, maybe with a little girl, another woman. She said to  
14 me, "Well, there's this girl, a peroxide blond woman," and  
15 maybe another older woman. I don't really remember.

16 Q Now I would just like to clarify one thing in relation to  
17 this phone call you made. You testified earlier that -- well,  
18 you testified yesterday and at the beginning of our session  
19 today about the time that Lt. Martinez raped you when he had  
20 sent Officer Smith away, is that correct?

21 A Yes.

22 Q Did that occur before you made this phone call about the  
23 Facebook page to Larihelys Vargas?

24 A Yes.

25 Q Now after you made this phone call to Larihelys Vargas,

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1 did you see the defendant or did you see Lt. Martinez?

2 A Yes.

3 Q Do you recall approximately how long after you made the  
4 phone call?

5 A If it wasn't the same day at 12., like between 12 and 1,  
6 then it was the next day. I know I saw him right after. I  
7 made the call and then he was there all of the sudden.

8 Q So a day or two, is that fair to say?

9 A Yes.

10 Q And where did you see him?

11 A In the unit.

12 Q Your unit?

13 A Yes.

14 Q Unit 6-S?

15 A Yes.

16 Q And around what time did you see him?

17 A About 12, before 1.

18 Q Are you talking about 12 midnight?

19 A Yes.

20 Q So between 12 midnight and 1 a.m., somewhere around there?

21 A Yes.

22 Q And where were you when you saw him?

23 A In my bed.

24 Q And what happened when you saw him?

25 A Well, the officer came to knock on my bed to get ready,

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1 that a lieutenant wanted to talk to me. I got up. I went into  
2 the bathroom and then as we were walking, I asked the officer,  
3 "Who? Who is the lieutenant?" And he said to me, "Lt.  
4 Martinez."

5 Q Do you recall --

6 A So I said, "Oh."

7 Q Okay. Do you recall who the officer was that night?

8 A Yes, he had not braids but do you know the hair that looks  
9 like this (indicating).

10 Q Okay. For the record, you're making a movement twisting  
11 your hair. Are you referring to dreads?

12 A Yes.

13 MS. SHIHATA: I'm showing the witness only --

14 A I don't know what they're called.

15 MS. SHIHATA: I'm showing the witness only what's  
16 been marked for identification as Government Exhibit 10.

17 Q Do you recognize the person in this photo?

18 A Yes.

19 Q Who is that?

20 A The officer who came to wake me up.

21 Q At the time we're just talking about now?

22 A Yes.

23 MS. SHIHATA: I move to admit Government Exhibit 10.

24 MR. RICCO: No objection, your Honor.

25 THE COURT: Admitted.

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1 (Government's Exhibit 10 received into evidence, as of today's  
2 date)

3 MS. SHIHATA: May we publish it?

4 Q So what, if anything, did you do after the officer  
5 depicted in Government 10 told you a lieutenant wanted to see  
6 you?

7 A Nothing. I got ready and I went over to the office.

8 Q Did anyone else go over to the office?

9 A Odis de la Cruz.

10 Q What happened next?

11 A He arrived, Lt. Martinez arrived and he went straight into  
12 the officer's office, called Odie. He talked to Odie.

13 Q Where?

14 A In the officer's office.

15 Q And you're talking about on Unit 6L?

16 A Yes.

17 Q I'm showing you what's in evidence as Government Exhibit  
18 104-E. Is the office in the corner with the ice machine in  
19 front of it, is that the officer's -- the guard's office in the  
20 unit?

21 A Yes.

22 Q Okay. And where were you while Lt. Martinez was talking  
23 with Odis de la Cruz inside the office?

24 A Outside. Outside waiting for them to finish.

25 Q How long -- about how long was Odis de la Cruz inside the



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1 office with Lt. Martinez?

2 A Not long. Maybe a couple of minutes.

3 Q What happened next?

4 A Then she came out and I went in.

5 Q And what happened when you went inside the unit office or  
6 the guard's office, excuse me.

7 A Well, Lt. Martinez was in there.

8 Q Was anyone else in there?

9 A No.

10 Q What happened?

11 A Then he started. He turned into the demon that he would  
12 turn into. "What did you do, idiot? What did you do, you  
13 damn, idiot? What are you doing?"

14 Q Who said that?

15 A Lt. Martinez.

16 Q What happened next?

17 A I said, "What?" He said, "You know what you did. Tell  
18 me, why did you do that?" I said -- I knew from the beginning,  
19 I said, "Because I am tired." Because as soon as he said to me  
20 -- I said, "I am so tired. I am so tired. I just don't know  
21 what to do at this point."

22 Q When he said, "Why did you do it," what did you think he  
23 was referring to?

24 MR. RICCO: Move to strike what he thinks.

25 Q What did you understand him to be referring to?

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1 A The call. The call I had made to Larihelys.

2 Q The Facebook call?

3 A Yes.

4 Q What happened next?

5 A He said to me, "You know, you know that you're in an  
6 investigation now, right?" I was the one who got scared, more  
7 than I was already scared. I said, "What are you talking about  
8 that I am in investigation?"

9 He said, "Oh, yeah, they're going to come and investigate  
10 you now." That -- then he said to me, "Okay, this is what  
11 you're going to do. You're going to tell him that you saw my  
12 email on the computer screen."

13 And I said to him, "I can't see your email address on the  
14 computer screen. How can I say that I see your email address  
15 on the computer screen?" So then say you saw it on some piece  
16 of paper that was on the floor or something.

17 I said, "Who is going to ask me about this?" He said,  
18 "You are going to be asked. You're going to be interrogated  
19 about this. The jail detectives will."

20 So I said to him, "okay, okay." And he said to me, "Oh.  
21 You tell Vargas." And I said, "Who?" "Larihelys. You tell  
22 Vargas," that that woman that she referred to because what he  
23 understood from the call, was that Larihelys had said that she  
24 had said like she was a junkie. "You tell Vargas that she is  
25 not a junkie. She has cancer." And that's when I said to him,

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1 "Oh, sorry," I really -- I said to him, because I really didn't  
2 remember that word that Larihelys used the word junkie, but  
3 then I said to him, "No, what she said was that she was a  
4 bottled blonde, a peroxide blonde." But then the officer came  
5 in and he said, "All right, you know what you have to say when  
6 the detectives come."

7 Q Okay. Just hold on for a second, okay? So when Lt.  
8 Martinez indicated to you or told you that there would be some  
9 type of investigation, who was in the office at that time?

10 A He and I.

11 Q Okay. Just the two of you?

12 A Lt. Martinez and I. Yes. The other officer was outside  
13 waiting.

14 Q Okay. And what, if anything, did Lt. Martinez say could  
15 happen to you as a result of the investigation?

16 A I could get more time.

17 Q And what did you understand him to mean by that?

18 A I said, "I don't want any problems." That -- by that  
19 point, I was the one who was really scared.

20 Q Okay. Just hold on. The question was what did you  
21 understand him to mean by that, by you could get more time?

22 A That I was about to get out. I was going to have to do  
23 time in jail -- that I was going to have to do more time in  
24 jail.

25 Q And at this point, about how much time did you have left

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1 in your sentence?

2 A Three or four months -- two or three months.

3 Q Okay. What happened next?

4 A I slept. I went to bed and to think about that.

5 Q How did you feel?

6 A Bad because really, what I wanted was him to hear and

7 stop. I didn't want to get myself in an investigation.

8 Q Why not?

9 A Because I didn't want to get into trouble. I didn't want  
10 to be sent to the SHU. When you're in investigation, you sent  
11 to the SHU during the time they investigate that. Doesn't  
12 matter what it is, you could spend months in the SHU. Oh,  
13 they're in the SHU. They're investigating.

14 Q And you testified yesterday what the SHU is, correct?

15 A Yes.

16 Q And just briefly, what is it?

17 A A room, a punishment room where you just have a little  
18 bed. There's no space for anything. They give you your food  
19 as if you were a dog and get taken out twice a week to wash.

20 Q Now did anyone else -- any other prison official speak to  
21 you about the phone call you made to Larihelys Vargas about Lt.  
22 Martinez's Facebook page?

23 A Yes.

24 Q Who?

25 A Rodriguez.

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1 Q I'm showing what's in evidence as Government's Exhibit 9.  
2 Who is that?

3 A Rodriguez.

4 Q And at the time Rodriguez spoke to you about the Facebook  
5 call, what type of officer was he?

6 A He had been a lieutenant in the past but at the time, he  
7 was a detective, like a prison investigator.

8 Q Did he work for what's called, SIS?

9 A Yes.

10 Q And do you recall when it was that you spoke with  
11 Rodriguez about the phone call?

12 A After Martinez came to see me, after that, the next day.

13 Q Okay. So around then?

14 A Yes.

15 Q And do you recall approximately what time of day it was?

16 A No, I really don't. I think -- I don't know if it was in  
17 the morning. I don't remember.

18 Q Do you recall where it was that Officer Rodriguez spoke  
19 with you?

20 A Yes.

21 Q Where?

22 A In the case manager's office.

23 Q And where is that?

24 A Outside, as you leave my unit, on the right. There's a  
25 door which control has to open for you and then it's the first

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1 door on the left after that door.

2 Q And it's on the sixth floor?

3 A Yes.

4 Q And how did you learn that -- how did you end up in the  
5 case manager's office?

6 A Because they called out to me on the loudspeaker. They  
7 called me out by last name and then I went to the unit  
8 officer's office and I said to him -- I said, "You called me?"  
9 He said, "No. It's the case manager's office. You have to go  
10 to the case manager's office."

11 Q What, if anything, happened when you got to the case  
12 manager's office?

13 A When I got there, Rodriguez was there and another  
14 investigator and other people. The case manager was there, the  
15 counselor was there. And Rodriguez said to them -- to the  
16 other detective, "Oh, let me talk to her because I speak  
17 Spanish well."

18 Q Okay. And just to be clear, when you say detective, are  
19 all the people that were there, were they the people that work  
20 for the prison?

21 A Yes, yes.

22 Q And where the case manager's office is, are there a number  
23 of offices in that area?

24 A Yes, there are two offices.

25 Q Okay. And did Officer Rodriguez speak with you alone in

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1 one of the offices?

2 A Yes.

3 Q And does Officer Rodriguez speak Spanish?

4 A Yes.

5 Q And what happened when you were in the office alone with  
6 Officer Rodriguez?

7 A He closed the door. He sat down and he said to me, "Tell  
8 me, what is going on or what happened?" And I said to him,  
9 "Oh, about what?" And he said to me, "Come on. We speak the  
10 same language. I listened to the recording."

11 Q What did you understand Officer Rodriguez to be referring  
12 to?

13 A That he had heard what I had said -- what I had discussed  
14 with Larihelys.

15 Q The Facebook call?

16 A Yes.

17 Q And how, if at all, did you react when Officer Rodriguez  
18 said that to you?

19 A I said to him -- he said, "What happened? What's going  
20 on?" I said, "Rodriguez, he is a pig. That man is a pig."

21 Q How were you reacting physically?

22 A I was nervous because when I -- when those people call for  
23 you, you get nervous.

24 Q When which people call for you?

25 A The investigations people, the ones from the jail.

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1 Q All right. What happened next?

2 A I asked him if I could get into trouble and he said yes.  
3 And he said to me, "That's why I took this case because if  
4 somebody else had taken it, you would have already been in the  
5 SHU or you would have been transferred by now."

6 And I said to him -- I said to him, "No, Rodriguez, I  
7 don't want -- I don't want trouble."

8 And he said to me, "If you promise me, you're not going to  
9 tell anybody else about this, I will tear up these papers and  
10 nobody else is ever going to ask you about this again."

11 I said, "All right. Well, then just tear them up, tear  
12 them up. I don't want any trouble."

13 Q Now did he actually have any papers with him when he was  
14 talking to you?

15 A No.

16 Q And at this point, were you crying?

17 A Yes, the -- I was -- tears were coming out of my eyes. I  
18 was telling him, I don't want any problems.

19 Q Were you scared?

20 A Yes.

21 Q What were you scared of?

22 A Because I didn't want to go to the SHU. He said to me,  
23 "If I hadn't taken this case, you would have gone to the SHU by  
24 now."

25 Q What happened next?



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1 A Then he said to me -- I asked him, "Am I going to get into  
2 trouble?" He said to me, "You're about to get out." And I  
3 said, "Yes."

4 He said, "You're going to immigration, right?" I said,  
5 "Yeah." I said to him, "Could I have problems in immigration  
6 because of this?" And he said, "Yes, but don't you worry, I am  
7 going to tear these papers up. This isn't going to go  
8 further."

9 Then he said to me, "Do not call her again. Delete  
10 Larihelys. Do not talk to her ever again."

11 And that was it. I left.

12 Q Now did anyone else, any other officials, prison officials  
13 at the MDC speak to you about that phone call?

14 A No, nobody else.

15 Q And in your conversation with Officer Rodriguez, did you  
16 say anything to him about what Lt. Martinez had been doing to  
17 you?

18 A No, all I kept saying is that he is a pig.

19 Q Why didn't you tell Officer Rodriguez?

20 A Because I didn't.

21 Q Why?

22 A You see I was about to get out by then. I wanted to get  
23 out. I didn't want any problems and, you know, if you looked  
24 at it this way, this was a problem. I was going to be in an  
25 investigation.

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1 Q Now I would like to direct your attention to February  
2 27th, 2016. Does that date have any significance to you?

3 THE INTERPRETER: Can the interpreter just have the  
4 year, '17?

5 MS. SHIHATA: No, February 27th, 2016.

6 A Yes.

7 Q What significance does it have to you?

8 A That's independence day in my country.

9 Q In the Dominican Republic?

10 A Yes.

11 Q Any other significance?

12 A Yes. It's Nani's birthday.

13 Q I'm showing you what's in evidence as Government's Exhibit  
14 4. Is that Nani?

15 A Yes.

16 Q And is her real -- her given name Danilda Lora?

17 A Yes.

18 Q Now do you recall what day of the week February 27th, 2016  
19 was?

20 A I know it was Saturday or Sunday.

21 Q So it was a weekend?

22 A Yes.

23 Q Now at some point on the morning of February 27th, 2016,  
24 were you and Nani in the lieutenant's officer area on the  
25 second floor?

Direct - "Maria" - Shihata

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1 A Yes.

2 Q And who, if anyone, took you there?

3 A Officer Nunez.

4 Q I am showing the witness only what's been marked for  
5 identification as Government's Exhibit 7.

6 Do you recognize this photo?

7 A Yes.

8 Q Who is this a photo of?

9 A Officer Nunez.

10 MS. SHIHATA: I move to admit Government's Exhibit 7.

11 MR. RICCO: Without objection.

12 THE COURT: It's admitted.

13 (Government's Exhibit 7 received into evidence, as of today's  
14 date)

15 MS. SHIHATA: May I publish it?

16 THE COURT: Yes.

17 Q Now why did Officer Nunez take you and Danilda to the  
18 second floor that morning?

19 A He took us to the fifth floor to clean but there were no  
20 sprays or detergents or anything to clean up there, so we had  
21 to go down to the second floor for that.

22 Q And what's on the fifth floor at the MDC at the time you  
23 were there?

24 A Education.

25 Q And what, if any, understanding did you have as to what

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1 type of officer Officer Nunez was at that time?

2 A The educational officer, one of them.

3 Q And where specifically did Officer Nunez take you and  
4 Danilda on the second floor?

5 A To the lieutenant's office.

6 Q And who, if anyone, was inside the lieutenant's officer  
7 when you, Officer Nunez and Danilda arrived to that area?

8 A Lt. Martinez.

9 Q And what, if anything, happened when you got to the  
10 lieutenant's office area with Officer Nunez and Danilda?

11 A The lieutenant -- Lt. Martinez started saying to me --  
12 well, "Why did I do that?"

13 Q So first of all, who was inside the -- when you got to the  
14 second floor, lieutenant office area, who went where?

15 A Officer Nunez, Lt. Martinez and I were in the office. I  
16 was at the cabinets. I was getting the sprays. Danilda stayed  
17 outside and that's when he started to talk to me.

18 Q Who?

19 A Lt. Martinez.

20 Q And what did he say?

21 A Oh. Why had I -- in other words, why had I done that?

22 Q Done what?

23 A Why had I made the call? Why had I said his name on a  
24 call.

25 Q Okay. And did he explicitly refer to the call or that's

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1 what you understood him to mean.

2 A No, he made reference to the call but he was talking to me  
3 in a way that was -- he was eating and talking, sort of in a --  
4 like in a laid back, joking kind of way. So then I was kind of  
5 nervous about Nunez. I was embarrassed by the way he was  
6 talking to me with Nunez there.

7 Q What happened next?

8 A Then I don't know if I told Nunez to leave, he told Nunez  
9 to leave, but I know that Nunez left.

10 Q Left the lieutenant's office?

11 A Yes.

12 Q And did you see where Officer Nunez went?

13 A No. He left but he was like in the hall. He was talking  
14 to Danilda there.

15 Q When you say "hall," -- I'm showing you what's in evidence  
16 as Government's Exhibit 102 -- sorry, Government's Exhibit 102-

17 A. Is this the area you're referring to?

18 A Yes.

19 Q That's where Danilda and then Officer Nunez were when he  
20 left the office?

21 A Yes.

22 Q And what happened -- what, if anything, happened when you  
23 were then alone with Lt. Martinez in the lieutenant's office?

24 A No, he was asking me why it was that I had made that call  
25 and I said to him that it was because I was tired.

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1 Q And what do you mean by tired?

2 A I was tired of him doing what he wanted to do with me  
3 every time.

4 Q What happened next?

5 A No, nothing. After that, I left, you know.

6 Q Did you get cleaning supplies?

7 A Yes, I got them.

8 Q And after you got cleaning supplies where, if anywhere,  
9 did you go?

10 A To the fifth floor to clean.

11 Q And who took you there?

12 A Officer Nunez.

13 Q And was anyone else with you?

14 A No. Oh, Danilda, Officer Nunez and I.

15 Q So the three of you went back to the fifth floor after you  
16 got the cleaning supplies?

17 A Yes.

18 Q Now did you stop seeing Lt. Martinez for a while after the  
19 phone call about Facebook and after the time you saw him on  
20 February 27th, 2016?

21 A Yes.

22 Q And how, if at all, did that make you feel?

23 A Good. At least -- at least I managed to get him to stop.  
24 He stopped.

25 Q Did you see him again?

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1 A Yes.

2 Q Around when?

3 A At the end of April.

4 Q What year?

5 A 2016.

6 Q And were you scheduled to leave the MDC or when were you  
7 scheduled to leave the MDC?

8 A April 29th, 2016.

9 Q Now when you saw Lt. Martinez in April 2016, sitting here  
10 today, do you recall what day of the week it was?

11 A I think -- I don't know, I believe it was a Saturday.

12 Q Okay. Fair to say you believe it was a Saturday but  
13 you're not 100 percent sure?

14 A Yes. I know that it was my last weekend there.

15 Q Okay. To the best of your recollection?

16 A Yes.

17 Q Now -- and where did you first see Lt. Martinez that day?

18 A In the unit.

19 Q In 6-South?

20 A Yes.

21 Q And what happened?

22 A I saw him on the unit and then he came to count with an  
23 officer.

24 Q Did he speak to you?

25 A No.

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1 Q And at some point after the count, did you learn that you  
2 were going to go clean?

3 A Yes.

4 Q And how did you learn that?

5 A Another inmate told me get ready. You're going to go  
6 clean.

7 Q And did you have any understanding of whether you would be  
8 cleaning alone or with someone else that day?

9 A I thought I was going to be going with Odie because he --  
10 he -- she said to me --

11 Q Okay. It's going to be confusing this way. Can you --  
12 you have to indicate who is speaking, okay?

13 A One of the inmates, her name is Felicia, told me you are  
14 going to work. What she said to me was, "Listen, he didn't  
15 remember your name."

16 Q Okay. Based on the conversation with Felicia what, if  
17 any, understanding did you have about who was going to be  
18 cleaning with you that day?

19 A Odis de la Cruz and I.

20 Q And did you see Odis de la Cruz in the unit after learning  
21 that?

22 A Yes.

23 Q And what, if anything, did she tell you when she saw you?

24 A She told me she could not go with me to clean.

25 Q Did she say why?



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- 1 A She said because she was going to have a visitor.
- 2 Q And was this day a visiting day at the MDC?
- 3 A Yes.
- 4 Q Did you go to clean that day?
- 5 A Yes.
- 6 Q And did you go alone or with any other inmates?
- 7 A I went alone.
- 8 Q And did an officer escort you to clean?
- 9 A Yes.
- 10 Q Where did the officer take you?
- 11 A To the lieutenant's office until they handed me over to
- 12 him.
- 13 Q Who, if anyone, was in the lieutenant's office when you
- 14 arrived?
- 15 A Lt. Martinez.
- 16 Q Did the officer who escorted you stay or leave after
- 17 escorting you?
- 18 A They left.
- 19 Q And what, if anything, happened after the officer who
- 20 escorted you left?
- 21 A I went in. I knocked. I went to the locker. I got a
- 22 plastic bag and I went outside to the trash cans.
- 23 Q I'm showing you what's in evidence as Government's Exhibit
- 24 103-B. When you said you went to the lockers, what were you
- 25 referring to?

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1 A The locker in the middle.

2 Q Okay. And for the record, you've made a mark on the metal  
3 cabinet in the middle of the photograph, is that correct?

4 A Yes.

5 Q And where did you go to change or where did you go after  
6 going to the locker?

7 A I went to clean. I was taking out the garbage.

8 Q Where?

9 A I'm sorry, what?

10 Q Where did you go to the garbages or garbage -- where did  
11 you go?

12 A To clean the office. First, I picked up all the trash  
13 from the cans and from the bathrooms.

14 Q Okay. Where did you pick up the trash from?

15 A From all of the containers. There were containers, like  
16 trash cans in the bathrooms. There were others outside, others  
17 in the lieutenant's office.

18 Q Okay. When you say "outside," I'm showing you  
19 Government's Exhibit 101-D, are you referring to this area?

20 A Yes.

21 Q Now who, if anyone, did you see when you were changing the  
22 trash bags in this area in Government Exhibit 101-D?

23 A I saw Nunez, Officer Nunez.

24 Q I'm showing you Government Exhibit 7 again. Is that who  
25 you saw?

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1 A Yes.

2 Q What happened?

3 A I was taking the trash out of the blue containers that  
4 were out there and he came in and he said, "Who are you with  
5 here?" And I said, "I am alone."

6 And like, "Who was the lieutenant?" And I said,  
7 "Martinez."

8 Q What happened next?

9 A He did like this and I went like that (indicating).

10 Q Okay. Can you describe with words --

11 A You know what? I can't.

12 Q Okay.

13 A You can't.

14 Q Did you make a motion with your head from right to left?

15 A He did like that.

16 Q Who did like --

17 A Like moving his head.

18 Q And who did that?

19 A Officer Nunez.

20 Q Okay. And the motion -- for the record, the motion that  
21 you made with your head, was that shaking it from right to  
22 left?

23 A Yes.

24 Q And then you made another motion after that. Can you just  
25 make that motion again?

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1 A I did like that.

2 Q Okay. And for the record is the motion you made kind of  
3 like a shrug?

4 A Yes.

5 Q What happened next?

6 A He went in and I continued to clean up the trash. He went  
7 into the lieutenant's office.

8 Q Officer Nunez did?

9 A Yes.

10 Q And you stayed in the hallway?

11 A Yes.

12 Q What happened next?

13 A Then I started to clean the bathrooms.

14 Q And which bathrooms did you clean?

15 A The ones that are in like the waiting area.

16 Q I'm showing you what's in evidence as Government's Exhibit  
17 102-B. Are these the bathrooms you're referring to?

18 A Yes.

19 Q What happened next?

20 A I was cleaning that bathroom and Nunez came out.

21 Q And for the record, you've made a mark on Government's  
22 Exhibit 102-B on the bathroom door to the right -- on the right  
23 side of the photograph, is that correct?

24 A Yes.

25 Q And what happened as you were cleaning?

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- 1 A Nunez came out and he stood there.
- 2 Q Stood where?
- 3 A Here, like in front, like there (indicating), in front of
- 4 the bathroom that I was cleaning.
- 5 Q And what happened next?
- 6 A He started to ask me -- he said, "Like, I hear you're
- 7 leaving." And I said, "Yes. I'm going to finally get out of
- 8 here." He asked me about Danilda and I said she was fine.
- 9 Q At that point, had Danilda left the MDC?
- 10 A Yes.
- 11 Q About how long did Officer Nunez speak to you for?
- 12 A Not long.
- 13 Q A couple of minutes?
- 14 A Yes.
- 15 Q And where, if anywhere, did he go after speaking with you?
- 16 A He left.
- 17 Q He left the lieutenant's office area?
- 18 A Yes.
- 19 Q What, if anything, happened next?
- 20 A I continued cleaning and Martinez started calling out to
- 21 me.
- 22 Q Where was Lt. Martinez when he was calling out to you?
- 23 A In his office.
- 24 Q In the lieutenant's office?
- 25 A Yes.

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1 Q And did you react to his calling you?

2 A I told him to wait but he -- he got up from his desk and  
3 he came to the door and that's where he was calling me from.

4 Q Came to what door?

5 A To the door of the lieutenant's office. Here. I was here  
6 cleaning this bathroom.

7 Q So where you still in the bathroom cleaning it?

8 A Yes.

9 Q And what happened next?

10 A I went.

11 Q Did Lt. Martinez at any point come to the bathroom?

12 A No. He only came to the bathroom the day I like shook the  
13 mop at him.

14 Q What you testified about yesterday?

15 A Yes.

16 Q Okay. So where did you go?

17 A To the lieutenant's office.

18 Q And what, if anything, happened as you were going into the  
19 lieutenant's office?

20 A When I went, he was standing in the doorway and he grabbed  
21 me by the arm and he was demanding to know why I was talking to  
22 Officer Nunez. That why was I talking to Nunez in that  
23 friendly, trusting way?

24 Q Was Lt. Martinez angry?

25 A Yes, because I said, "Well, he did was ask me about

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1 Danilda."

2 Q What happened next?

3 A He let me go. He let me go because I said -- well, he let  
4 go of my arm.

5 Q What happened next?

6 A After -- that was the last time.

7 Q The last time what?

8 A That he raped me.

9 Q When he let go of your arm and you went back -- after he  
10 let go of your arm, did you both go into the office?

11 A Yes.

12 Q And what, if anything, did you do in the office?

13 A There was a trash can, a small trash can like that one  
14 (indicating) and I went towards that trash basket to take the  
15 trash out and it was like here to the left of the desk.

16 Q Okay. I'm showing you what's in evidence as Government's  
17 Exhibit 103-C. Can you describe using this photograph in what  
18 area the small trash can you just described was?

19 And for the record, you've just made a mark on  
20 Government's Exhibit 103-C, to the right of the desk in that  
21 photograph, is that correct?

22 A Yes.

23 Q And what were you doing in relation to the little trash  
24 can?

25 A I was changing the bag.

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1 Q Changing the garbage bag?

2 A Yes.

3 Q And what, if anything -- and where, if anywhere, was Lt.  
4 Martinez at that time?

5 A I don't -- I don't know if he was sitting or standing. I  
6 know he was screwing around with the computer.

7 Q And what happened next?

8 A After, he came and he grabbed me there.

9 Q Was that while you were changing the trash bag?

10 A Yes.

11 Q What happened next?

12 A He started to kiss me. He started to grope me. He was  
13 starting to try to pull down my pants. He would pull them  
14 down. I would pull them back up.

15 Q What happened next?

16 A After he finished groping me, he took me to this chair.

17 Q Can you make a mark on Government's Exhibit 103-C? And  
18 for the record, have you made a mark on this exhibit, on what  
19 looks like a blue chair towards the back wall?

20 A Yes.

21 Q What happened next?

22 A He put me on all fours. He grabbed me here (indicating)  
23 but he couldn't really grab me as tightly as he usually did.  
24 He had -- like he had injured his finger and he had something  
25 like a cast on that finger.



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1 Q Okay. And you said -- you made a movement towards an area  
2 of your body when you said he grabbed you here. For the  
3 record, did you make a movement indicating your shoulders?

4 A Yes.

5 Q What happened next?

6 A He penetrated me.

7 Q Which way were you facing on the chair?

8 A At the wall.

9 Q And what part of your body did Lt. Martinez penetrate?

10 A My vagina.

11 Q And what did he penetrate your vagina with?

12 A With his penis.

13 Q And was he behind you when he did this?

14 A Yes.

15 Q Did he ejaculate inside you that day?

16 A No, that was the only time that he did not ejaculate  
17 inside me.

18 Q And how did you know that he didn't ejaculate inside you?

19 A Because -- no because when he pulled out, he said, "Wait,"  
20 and he got a paper towel and he cleaned me off here on my back.

21 Q And for the record, are you making a movement with your  
22 hand pointing to your lower back?

23 A Yes.

24 Q Did he say anything else?

25 A He said, "Since you're going to immigration, it could be

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1 that they give you a checkup."

2 Q Now when Lt. Martinez raped you this last time, how did  
3 you feel while that happened -- while that was going on?

4 A I felt bad but to tell you the truth, I thought to myself,  
5 at least this is the last time.

6 Q Because you were getting out soon or leaving the MDC soon?

7 A Yes, the next weekend, I was going to be leaving the next  
8 week.

9 Q Were you scared while he was raping you?

10 A Yes.

11 Q Did you want to have his penis in your vagina that day?

12 A No.

13 Q Did he force you to have sex with him that day?

14 A Yes.

15 Q Did you feel like you had any choice about that?

16 A No.

17 Q Now at some point, did an officer escort you back to your  
18 unit?

19 A Yes.

20 Q And when you got back to your unit, did you see Odis de la  
21 Cruz?

22 A Yes.

23 Q And what, if anything, did you learn from Odis de la Cruz  
24 when you got back?

25 A I am not sure. I wasn't there but I believe that she

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1 ended up not going to her visit.

2 Q So that she didn't have a visit after all?

3 A Well, that's what they told me.

4 Q Now did your federal conviction have any affect on your  
5 immigration status?

6 A Yes.

7 Q Actually before we get to that, do you see Lt. Martinez in  
8 the courtroom?

9 A Yes.

10 Q Can you identify him by an item of clothing that he is  
11 wearing?

12 A Black jacket.

13 Q What color is the tie he is wearing?

14 A Like yellow.

15 MS. SHIHATA: The record could reflect that the  
16 witness has identified the defendant.

17 THE COURT: Yes. Yes.

18 Q Did you see Lt. Martinez in the courtroom yesterday?

19 A Yes.

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Direct - "Maria" - Shihata

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1 Q Why didn't you identify him yesterday?

2 MR. RICCO: Objection.

3 THE COURT: Sustained.

4 MS. SHIHATA: Can we have a sidebar, Judge?

5 THE COURT: I recall, she identified him from a  
6 picture.

7 MR. RICCO: That was recollection.

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1 Q Why didn't you identify him in court yesterday, in person?

2 A Because I would say to myself I never, ever in my life  
3 wanted to see that man again. I --

4 Q Now your federal conviction, did it have an affect on your  
5 immigration status?

6 A Yes.

7 Q And what is your understanding of what affect it had?

8 A There was a possibility of getting deported -- there is a  
9 possibility that I am going to get deported.

10 Q And where, if anywhere, did you go after you were released  
11 from the MDC?

12 A Immigration.

13 Q Were you in immigration custody?

14 A Yes.

15 Q And were you put in removal or deportation proceedings?

16 A Yes.

17 Q And while you were in immigration custody, did you get an  
18 immigration lawyer?

19 THE COURT: Excuse me. What custody are you talking  
20 about?

21 Q After you left the MDC, were you transferred to another  
22 jail?

23 A Yes.

24 Q And was that because you were in the custody of  
25 Immigrations and Customs Enforcement?

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1 A Yes

2 Q And is that because your federal conviction affected your  
3 status as a green card holder?

4 A Yes.

5 Q Did you get an immigration lawyer?

6 A The government gave me an immigration lawyer.

7 Q And did your immigration lawyer file certain documents on  
8 your behalf?

9 A Yes.

10 Q And was the purpose of those filings, so that you wouldn't  
11 get deported?

12 A Yes.

13 Q And do you recall around when your immigration attorney  
14 filed those documents?

15 A In around May, June, sometime around there.

16 Q Of what year?

17 A 2016.

18 Q Now in those documents, did you provide truthful  
19 information about Torres, the man was spoke about yesterday,  
20 who got you involved in the drug conspiracy?

21 A Yes.

22 Q And did you provide truthful information about the number  
23 of times you had picked up drugs for Torres?

24 A Yes.

25 Q In those documents, did you also indicate that you had not

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1 provided that information to prosecutors --

2 MR. RICCO: Objection, Judge. No, withdrawn. I'm  
3 sorry.

4 THE COURT: It's withdrawn.

5 Q In those documents, did you also indicate that you had not  
6 provided that information to prosecutors and the Court that  
7 sentenced you in your federal criminal case?

8 A Yes.

9 Q And yesterday here in court, did you testify about various  
10 things that you had left out in your safety valve proffer in  
11 your criminal case?

12 A Yes.

13 Q In connection with your testimony here in court, did you  
14 receive a letter from the government?

15 A Sorry, could you repeat that?

16 Q Sure. In connection with testifying here in court, both  
17 yesterday and today, did you receive a letter from the  
18 government?

19 A No.

20 Q Did you receive a letter from the government regarding --  
21 actually, let me --

22 MS. SHIHATA: One moment.

23 THE WITNESS: I know what letter.

24 Q Did you receive a letter from the government?

25 A Yes.

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1 Q And what is your understanding of what that letter is?

2 A That letter, in my understanding, is no information about  
3 my criminal case can be -- be received, provided -- something  
4 like I can't get charged because of my criminal case but I can  
5 be if I were to lie here.

6 Q Okay. So --

7 A Something like that.

8 Q -- your understanding of this letter is that if you lie  
9 during your testimony, you can be charged for lying, is that  
10 correct?

11 A Yes.

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1 Q Is it also your understanding that --

2 MR. RICCO: Objection, Judge.

3 THE COURT: What's the objection?

4 MR. RICCO: Leading.

5 THE COURT: I know but it's all over. Sustained.

6 Strike the answer. In any event, she's already testified

7 without the leading question, too.

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1 Q Now the petition that your immigration lawyer filed for  
2 you, is it still pending?

3 A Yes.

4 Q So no decision on that has been made yet by the  
5 immigration authorities?

6 A No. They haven't, no.

7 Q Now while you were in immigration custody, did you see  
8 Danilda and -- Danilda Lora and Melva Vasquez again?

9 A Yes.

10 Q Were they also in immigration custody?

11 A Yes.

12 Q At the same facility?

13 A Yes.

14 Q And when you first saw them, in immigration custody, did  
15 you show them anything?

16 A Yes.

17 Q What did you show them?

18 A My arm. My arm. His fingers, the marks from his fingers  
19 were on my arm because when I got to immigration, I was really  
20 pale.

21 Q Now when you first -- when was the first time you told  
22 anyone in law enforcement about what the defendant, Lt.  
23 Martinez did to you while you were at the MDC?

24 A The second or third time when you came to meet with me.

25 Q And were any agents present?

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1 A Yes.

2 Q Do you remember who?

3 A Christina, Laura.

4 Q Are you referring to Agents Laura Riley and Christine  
5 Doyle?

6 A Yes. Marisa.

7 Q Okay. There was another person by the name of Marisa?

8 A Yes.

9 Q And where were you -- were you still in immigration  
10 custody at that time?

11 A Yes.

12 Q And the first time the agents met with you, what if  
13 anything they did ask you about?

14 A They asked me about my name, had I been at the MDC in  
15 Brooklyn. They asked me a bunch of questions.

16 Q About MDC Brooklyn?

17 A Yes.

18 Q And before they showed up that day to speak with you, did  
19 you know why they were coming to speak to you?

20 A No.

21 Q And that first time, did you tell them about what Lt.  
22 Martinez did to you at the MDC?

23 A No.

24 Q Why not?

25 A Because I didn't. I didn't want problems. You know, when

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1 the FBI comes looking for you, I thought they were going to  
2 send me back to jail and to be honest, I didn't trust them. I  
3 didn't tell them anything. I didn't want any trouble.

4 Q Did you agree to meet with them again?

5 A Yes. Once I made sure with my lawyer, I called the  
6 consulate and asked them to provide me with a lawyer.

7 Q Did you meet with them again with your immigration lawyer?

8 A Yes.

9 Q And when you met with them again, did you tell them what  
10 Lt. Martinez did to you?

11 A Yes.

12 Q And to be clear, was this after you had already filed your  
13 immigration petitions?

14 A Of course, yes.

15 Q And those petitions remain pending, correct?

16 A Yes.

17 Q Now at some point were you released on bail from  
18 immigration custody?

19 A Yes.

20 Q And do you recall around when that was?

21 A In April.

22 Q Of?

23 A 28th.

24 Q Of what year?

25 A 2017.

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1 Q Now after you were released from immigration custody, did  
2 you speak to Danilda Laura?

3 A Yes.

4 Q And have you spoken to Melva Vasquez?

5 A Yes.

6 Q And how about Kiara Maldonado?

7 A Yes, but -- around twice.

8 Q Now did you discuss with any of those individuals the  
9 details of what you would be testifying about in court today  
10 and yesterday?

11 THE INTERPRETER: I'm sorry, could the interpreter  
12 have the last part of the question?

13 Q Did you discuss with any of those individuals the details  
14 of what you would be testifying to at this trial?

15 A Me? What I was going to say?

16 Q That's what I am asking you, did you do that?

17 A No, no.

18 Q Did you at some point receive a phone call from Kiara  
19 Maldonado?

20 A Yes.

21 Q And was she angry on the phone call?

22 A Yes.

23 Q Why was she angry?

24 A Because the FBI had gone to her house to tell her she had  
25 to come and testify here.

Direct - "Maria" - Shihata

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1 Q And was she mad at you?

2 A Yes.

3 Q Did you tell her what to say?

4 A No.

5 Q Are you familiar with the term U visa?

6 A Yes.

7 Q And what is your understanding of what a U visa is?

8 A It's like -- I know it's something like -- well, I know  
9 what it is. It's like when you're a victim of a crime, a  
10 violent crime or when there's domestic violence, something like  
11 that.

12 Q So a type of visa -- it is your understanding that that's  
13 a type of visa you can apply for when you're a victim of a  
14 certain type of crime?

15 A Yes, yes.

16 Q Have you applied for a U visa?

17 A No.

18 Q Has anyone made any promises to you that you will get a U  
19 visa?

20 A No.

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Direct - "Maria" - Shihata

233

1 Q If you were to apply for a U visa --

2 MR. RICCO: Move to strike, if.

3 MS. SHIHATA: Can we have a side-bar, Judge?

4 THE COURT: No.

5 MS. SHIHATA: Have you ruled on the objection, Judge?

6 THE COURT: Sustained.

7 MS. SHIHATA: I'm sorry, I didn't hear.

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Direct - "Maria" - Shihata

234

1 Q Now apart from your immigration lawyer, do you have any  
2 other lawyer representing you at this time?

3 A Yes.

4 Q And has that lawyer filed any paperwork on your behalf?

5 A Yes.

6 Q What is your understanding of what type of paperwork that  
7 lawyer has filed?

8 A It's a case involving a lawsuit.

9 Q Have you actually filed a lawsuit at this point?

10 A It's for a future lawsuit, if I do that -- if, in fact,  
11 that happens.

12 Q So what is your understanding of what the paperwork that  
13 has been filed is? Who is it -- do you know who it has been  
14 filed with or submitted to?

15 A What was that?

16 Q What, if any, understanding do you have regarding the  
17 paperwork that the lawyer filed or submitted?

18 A My lawyer filed some papers for a lawsuit.

19 Q Do those papers preserve your ability to file a lawsuit in  
20 the future, if you so choose?

21 A Yes.

22 Q And was there a time by which that paperwork had to be  
23 filed in order to preserve that ability?

24 A Yes.

25 Q Sitting here today, have you decided whether you're going



Direct - "Maria" - Shihata

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1 to file a civil lawsuit against anyone?

2 A No, I am not. I just want this to be over. I don't know  
3 if I am going to leave this country. No.

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Direct - "Maria" - Shihata

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1 Q And if you left this country --

2 MR. RICCO: Objection.

3 THE COURT: Sustained.

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Direct - "Maria" - Shihata

237

1 MS. SHIHATA: One moment, your Honor.

2 Q Now the things that happened to you at the MDC that you've  
3 testified about yesterday and today, do they still affect you?

4 A They continue to affect me and they will always affect me.  
5 I don't think I'll be able to get over that.

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Direct - "Maria" - Shihata

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1 Q Do you have nightmares from it?

2 MR. RICCO: Objection, Judge.

3 THE COURT: Sustained.

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Direct - "Maria" - Shihata

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1 Q Now you testified when you left the MDC, you went to an  
2 immigration jail, is that correct?

3 A Yes.

4 Q And when you were in that immigration jail, were there  
5 guards there that did rounds?

6 A Yes.

7 Q Was there anything about that that affected you?

8 A They had keys and in immigration, the beds -- well, it's  
9 open like this but the beds are only like this and they had to  
10 walk past the beds, every hour. Every time they walked past my  
11 bed, I could hear those keys.

12 Q What did it remind you of?

13 A It reminded me of the keys he had here.

14 Q The keys who had?

15 A Him, Lt. Martinez.

16 MS. SHIHATA: No further questions.

17 THE COURT: All right. Ladies and gentlemen, we'll  
18 break for lunch. Is 2:30, okay? Okay, till 2:30.

19 THE CLERK: All rise.

20 (Jury exits courtroom.)  
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Proceedings

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1 THE CLERK: Be seated.

2 MR. RICCO: Judge, I want to put something on --

3 ESR OPERATOR: Microphone, please.

4 MR. RICCO: I'm sorry. Judge, I want to put  
5 something on the record because I just want it to be clear.

6 THE CLERK: Ladies and gentlemen, please sit.

7 MR. RICCO: Yes. Before --

8 ESR OPERATOR: Please, near your microphone.

9 MR. RICCO: I'm sorry. Before the jury was exiting  
10 the room, the government prosecutor came over to my table and  
11 asked me a question about an associate of mine who is Carlos  
12 Santiago, who is in the mentioning program and works in my  
13 office and has worked on this case. And questioned me as to  
14 what I handed to him and it was done in the presence of the  
15 jury leaving. I didn't --

16 THE COURT: She questioned to you as to what? I  
17 didn't hear you.

18 MR. RICCO: I didn't appreciate that happening and --

19 THE COURT: No, what was the question that she asked  
20 you?

21 MR. RICCO: The question was --

22 THE COURT: I didn't hear you.

23 MR. RICCO: They questioned me as to -- the question  
24 was who did you hand the immigration paperwork to? First of  
25 all, I didn't hand immigration paperwork to the person and

1 secondly, the individual I did hand it to is an attorney who is  
2 in the Southern District mentioning program, who is an  
3 associate in my office, who understands the protective order in  
4 this case, who has worked on this case. And what I handed to  
5 him was 35-M6. It is not the immigration paper. It is  
6 nevertheless subject to the protective order. I'm fully  
7 familiar with my responsibilities under the protective order  
8 and I did not appreciate the way I was approached in the  
9 courtroom with the jury present. It could have waited until  
10 the jury left.

11 THE COURT: Okay.

12 MR. RICCO: I just wanted to put it on the record.  
13 I'm not asking the Court to do anything.

14 MS. ARGENTIERI: Judge, I just want to clarify that I  
15 simply asked Mr. Ricco --

16 ESR OPERATOR: Speak near a microphone.

17 MS. ARGENTIERI: I wanted to just clarify that I was  
18 not accusatory at all. I raised it with Mr. Ricco in the first  
19 instance because there is a protective order over the  
20 materials. I just wanted to know who he had given it to. Our  
21 paralegal had seen him give protective materials.

22 And I just note that we have no issue with anyone on  
23 Mr. Ricco's team having access to any of the materials. I  
24 think that we've tried to really be -- to work together on this  
25 but the individual was sitting next to members of the audience,

1 including the defendant's family when he was copying the  
2 paperwork and we had concerns about that. I didn't even get to  
3 raise that concern with Mr. Ricco but I was seeking to just  
4 deal with him at the outset and I don't -- that's simply what  
5 the issue was.

6 THE COURT: All right.

7 MR. RICCO: First of all, we have a difference of  
8 opinion as to your tone and the way in which you approached me  
9 but you certainly approached me with the jury in the room and I  
10 thought that was inappropriately.

11 Secondly, he is an attorney. I'm an attorney. I  
12 don't care who is sitting next to him. He understands what he  
13 does when he gets a confidential document. It is not your  
14 place in the presence of the jury to do this.

15 THE COURT: Okay.

16 THE CLERK: Thank you, counsel.

17 (Recess from 1:50 p.m. until 2:53 p.m.)

18 (Jury enters)

19 THE CLERK: Please be seated.

20 THE COURT: I know I said we would start at 2:30 but  
21 I had another matter on at 2:15 in another case and it just ran  
22 a little longer than I anticipated. All right. Mr. Ricco.

23 MR. RICCO: Thank you very much, Your Honor.

24 CROSS EXAMINATION

25 BY MR. RICCO:



Cross - "Maria" - Ricco

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1 Q Good afternoon. I want to ask you --

2 A Good afternoon.

3 Q I want to ask you some questions about the various  
4 statements that you've made, beginning in 2013, and right up  
5 until the time that you filed for your asylum application.  
6 Okay? Okay?

7 A Okay. Okay.

8 Q All right. Okay. Now, what brought you into custody in  
9 the first place was that you got arrested in connection with a  
10 drug conspiracy, correct?

11 A Yes.

12 Q And back on September 18th, 2013, you were arrested by  
13 federal law enforcement agents, right?

14 A Yes.

15 Q And when those federal law enforcement agents caught you,  
16 and you had in your possession \$10,000. Isn't that correct?

17 A Yes.

18 Q And the agents asked you about that \$10,000, didn't they?

19 A I don't remember whether they asked me about that.

20 Q Okay, I'd like to take a look at 30 -- I have here,  
21 showing 3500, 82. Eighty-two.

22 THE CLERK: Mr. Ricco.

23 MR. RICCO: Yes.

24 THE CLERK: I need you in front of the microphone.

25 MR. RICCO: Oh, I'm sorry.

Cross - "Maria" - Ricco

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1           Okay, Your Honor, I'd like to approach the witness with  
2 M2-D2 -- DEBTOR, sorry.

3 BY MR. RICCO:

4 Q       And I'd like to show it to the witness, and ask her if she  
5 takes a look at this section, if she was asked questions about  
6 where she got that \$10,000 from; where she got that money from.

7 (Pause.)

8 Q       Okay. Have you had the time to read the document?

9 A       Yes.

10 Q       You told the agents that that \$10,000 was sent to you by  
11 your brother in the Dominican Republic for money to help you  
12 pay for your cleaning business, correct?

13 A       Yes, but after I told them, I said that the money had been  
14 given to me by Max.

15 Q       Okay. We'll come to Max. The first story you told them  
16 is that your brother sent it to you, right?

17 A       Yes.

18 Q       And that you were going to be using that for your cleaning  
19 business, right?

20 A       Yes.

21 Q       You don't want to tell them the truth, did you?

22 A       No.

23 Q       Because you figured if you told them the truth as to what  
24 the \$10,000 was for, you would be in more trouble. Isn't that  
25 correct?

Cross - "Maria" - Ricco

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1 A I wasn't thinking about the \$10,000. What I was thinking  
2 about was the fact that Max was waiting for me at the corner.

3 Q My question is, is it true that the reason why you didn't  
4 tell the agents where you really got the money from when they  
5 asked you, is because you were afraid it would have gotten you  
6 into more trouble?

7 A Yes.

8 Q Now you also told the agents that day, when you got  
9 arrested, that some guy named Robert had called you that day  
10 and told you to pick up something from him that day, and that  
11 he would see to it that you were paid \$2,000 in U.S. currency.  
12 Correct?

13 A Excuse me?

14 Q Okay. You also told the agents when you first were taken  
15 into custody, that a guy named Robert had called you the day  
16 you got arrested, right? And that he told you that he was  
17 going to have -- that you needed to pick up something for him  
18 that day, and that you would be \$2,000.

19 A I said that I went to pick up the drugs and they were  
20 going to pay me \$2,000. But I knew that Robert was not the one  
21 who was going to pay me because I did not trust Robert.

22 Q Okay. But you told the agents that Robert was the person  
23 who called you, correct?

24 A Hold on. Hold on. In the first place, when I got  
25 arrested there was no interpreter. They were asking me

Cross - "Maria" - Ricco

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1 questions in English and I don't know English.

2 Q Okay.

3 A So when I went for the safety valve meeting, that's when I  
4 told them about Max.

5 Q We're not asking you about safety valve, and we're not  
6 asking you about Max. We're asking you about the day you got  
7 arrested and you made statements to the agents. Do you  
8 remember doing that? Yes or no?

9 A I don't remember.

10 Q Take a look at that document in front of you. That's 3500  
11 M2, and see if that helps refresh your recollection as to what  
12 you told the agents when you were taken into custody.

13 (Pause.)

14 MS. SHIHATA: Your Honor, I'm sorry. While that's  
15 going on could we have just a brief sidebar?

16 THE COURT: Yeah.

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Cross - "Maria" - Ricco

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1 (Conference held at sidebar.)

2 MS. SHIHATA: Thank you, Your Honor.

3 THE COURT: I think it's on.

4 MS. SHIHATA: I don't think it is, actually.

5 So my only issue is that because she doesn't speak  
6 English she's having the document translated for her, which is  
7 fine. But my concern is that there are members of the jury who  
8 know Spanish and are hearing the entire translation, and given  
9 that this is not in evidence and it's used to refresh her  
10 recollection, I'm wondering if we can at least take the  
11 microphone away when that's happening, because the document  
12 that's being --

13 THE COURT: I don't have it --

14 MR. RICCO: I don't have an objection to that.

15 MS. SHIHATA: Okay. I'm just raising it.

16 THE COURT: I don't know if we should take the  
17 microphone away from him.

18 MS. SHIHATA: Right now the interpreter is  
19 interpreting and there are jurors who speak -- she's  
20 translating the English into Spanish of a document that's  
21 3500 --

22 MR. RICCO: And there's not a juror paying attention  
23 to it.

24 MS. SHIHATA: Well, maybe not right this second.

25 THE COURT: What do you want the -- I don't

Cross - "Maria" - Ricco

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1 understand.

2 MS. SHIHATA: I'm just trying to avoid --

3 THE COURT: I'm not arguing with you.

4 MS. SHIHATA: Okay.

5 THE COURT: I just want to know what you want. I  
6 want to be --

7 MS. SHIHATA: Just move the microphone away from the  
8 interpreter's mouth when she's --

9 MS. ARGENTIERI: When she's interpreting 3500.

10 THE COURT: So somebody tell the --

11 MR. RICCO: Judge --

12 THE CLERK: I can turn the microphone off and then  
13 turn it back on when she's ready to answer.

14 THE COURT: I'm not sure, by the way, that she  
15 doesn't speak English.

16 MS. SHIHATA: She does not read English well enough  
17 to understand --

18 THE COURT: I don't know if she can read English, but  
19 I have the impression from at least one or two of the questions  
20 that she answered, that she could speak English.

21 MS. SHIHATA: I --

22 THE COURT: Not, she may not speak it the way we do.

23 MS. SHIHATA: As I asked her --

24 THE COURT: (Inaudible.)

25 MS. SHIHATA: As I asked her yesterday, Judge, she

Cross - "Maria" - Ricco

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1 does speak some English.

2 THE COURT: Yeah.

3 MS. SHIHATA: But she's -- I don't think we can rely  
4 on that for reading 3500 material.

5 THE COURT: No, but she also gave that as a reason  
6 why she may have answered the question in a particular way,  
7 which is --

8 MS. SHIHATA: Well, that was also --

9 THE COURT: -- is a different story.

10 MS. SHIHATA: -- four years ago.

11 MS. ARGENTIERI: We were just concerned about her  
12 microphone, Judge.

13 (Conference concludes at sidebar at 3:04 p.m.)

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Cross - "Maria" - Ricco

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1 THE INTERPRETER: Counselor, this document goes on to  
2 the other side of the page and --

3 MR. RICCO: The first page is fine.

4 THE INTERPRETER: Thank you.

5 BY MR. RICCO:

6 Q Does that help refresh your recollection?

7 A (No audible response.)

8 Q Now, a couple of minutes ago, you told the jury here,  
9 "Well, I didn't know what was said because I speak Spanish and  
10 there was nobody there speaking Spanish." Didn't you just say  
11 that to the jury a few minutes ago?

12 A Yes.

13 Q The fact of the matter --

14 A But you know what, I don't remember that. I mean, that  
15 happened way back in 2013. What do I know?

16 Q The fact of the matter is that you were given Miranda  
17 warnings in Spanish. Isn't that correct?

18 A When I got arrested there was no Spanish speaking officer  
19 there, because they asked me in the van, what is this, like  
20 what is this, in English. That officer got there later, when I  
21 went -- when I was taken somewhere else. You're talking about  
22 when I was arrested.

23 Q I was talking about when you were speaking about Robert,  
24 and the other information about the money. That information  
25 was provided by you at a precinct. Isn't that correct?



Cross - "Maria" - Ricco

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1 A Okay.

2 Q And before you were asked those questions and gave those  
3 answers, your rights were read to you in Spanish, weren't they?

4 A Yes, I think so.

5 Q You told the police that day, during that same interview,  
6 that somebody had called you to meet someone to bring back a  
7 bag to Robert. Isn't that correct?

8 A Yes, to go and to pick up some drugs. Yes.

9 Q You told them that Robert worked at an airport. Right?

10 A That's what he told me.

11 Q Okay. And that's what you told the police when they asked  
12 you, right?

13 A Yes.

14 Q And you also told them that you had a boyfriend named  
15 Florian Sepp. Isn't that correct?

16 A Yes. That's true.

17 Q And you gave them your boyfriend's phone number, right?

18 A Yes, so that I could call him.

19 Q You also stated that there was another person named Tatiko  
20 (ph), who was supposed to pick up the bag, correct?

21 A Yes, but I did not know that person. I had never seen  
22 him.

23 Q I'm going to come to that. The first thing is that you  
24 told the police about a person named Tatiko. Isn't that  
25 correct?

Cross - "Maria" - Ricco

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1 A Well, right now I don't remember if the name was Tatico,  
2 but I do know that there was somebody who was going to pick up  
3 the bag. I don't know if the name was Tatico.

4 Q Turn the page over in front of you and read the first  
5 sentence.

6 MR. RICCO: I'm sorry, Madam Interpreter.

7 THE INTERPRETER: Yes, sir.

8 MR. RICCO: Read number 9.

9 BY MR. RICCO:

10 Q Remember Tatico, giving them the name Tatico now?

11 A Yes, I knew that there was another person but I didn't  
12 remember the name Tatico.

13 Q Do you remember it now?

14 A No, I don't remember it now. If I said it at that time,  
15 then it was Tatico, what it says there.

16 Q Okay. Let's move ahead to your safety valve proffer.  
17 Okay?

18 Now that safety valve proffer took place around May 2014,  
19 if you recall. You remember?

20 A I know that I went to a safety valve. I don't remember  
21 what date it was that I went there.

22 Q Okay. And when you went to the safety valve, you went  
23 there with your lawyer, right?

24 A Yes.

25 Q And that lawyer's name was Matthew Kluger, correct?

Cross - "Maria" - Ricco

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1 A Yes.

2 Q And before you went to that safety valve session -- and by  
3 the way, Matthew Kluger was not a court appointed lawyer, was  
4 he?

5 A Yes.

6 Q He was?

7 A No, no, no.

8 Q He was a paid lawyer.

9 A Yes.

10 Q Tell the jury how much you paid him.

11 MS. SHIHATA: Objection.

12 MR. RICCO: Well, I can rephrase the question, Judge.

13 THE COURT: Go ahead and rephrase it.

14 BY MR. RICCO:

15 Q Did you pay him any money?

16 A Ramon paid.

17 Q We're going to come to Ramon. My question is, did you pay  
18 him any money.

19 A I still owe that money.

20 Q You owe money to Mr. Kluger?

21 A No, Ramon got a mortgage on some land in Santo Domingo. I  
22 had to send him the title for that land and Ramon still has the  
23 title and I'm paying him back. And when I complete the  
24 payments, that's when he's going to return the title to me.

25 Q Did you do that? Did your lawyer know about that?

Cross - "Maria" - Ricco

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1 A I don't know.

2 Q Did you discuss that with your lawyer?

3 MS. SHIHATA: Objection.

4 THE COURT: Overruled.

5 THE WITNESS: What was that?

6 BY MR. RICCO:

7 Q Did you discuss the mortgage for attorney's fees with your  
8 lawyer?

9 A Ramon paid my lawyer his money. He was paying him.

10 Q That wasn't my question. My question was, did you discuss  
11 the mortgage arrangement with the lawyer?

12 A I don't remember. I think I did. I think I told him I  
13 was really the one who was paying him, because once I got out I  
14 would have to pay that money back to Ramon.

15 Q Okay. And your testimony today is that you still owe that  
16 money for the lawyer to Ramon?

17 A Yes.

18 Q Tell us how much it is.

19 A Ramon got -- I know I owed Ramon about \$11,000. The  
20 lawyer's fees was \$9,000, 9,500. He came down in price, Ramon,  
21 I don't know how much. I do know, though, that when I got out  
22 I had to pay Ramon \$11,000.

23 Q Okay.

24 A \$11,500, \$11,000.

25 Q All right. We're going to come back to that. When you

Cross - "Maria" - Ricco

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1 had the safety valve proffer session, there was a Spanish  
2 interpreter present at the safety valve proffer session, isn't  
3 it?

4 A Yes.

5 Q And at the safety valve proffer session, before the  
6 session started, the prosecutor talked to you about the  
7 importance of the session, right?

8 A Yes.

9 Q And how they wanted to find out if you fit into the  
10 category of people who are eligible for safety valve.

11 A Yes.

12 Q And the most important thing, the most important thing  
13 that the prosecutor said to you was that you had to be honest  
14 and truthful. Isn't that correct?

15 A Yes.

16 Q They also told you that if you were an organizer, you  
17 might not be eligible for safety valve, right?

18 A Yes.

19 Q And if the drug conspiracy included violence, you might  
20 not be eligible for safety valve, right?

21 A If they said -- I don't remember. If they said that --  
22 before you start testifying they read to you from the -- I  
23 can't remember what all those papers said.

24 Q And you had to sign your name to the bottom of one of  
25 those papers.

Cross - "Maria" - Ricco

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1 A Yes, of course.

2 Q Okay. And so you told them, the prosecutors, that you had  
3 been in the country for seven years trying to support your  
4 family. Isn't that correct?

5 A Yes.

6 Q And that three years before your arrest in September 2013,  
7 your family house in the Dominican Republic had burned to the  
8 ground. You told them that, right?

9 A Yes.

10 Q You told them that family members were injured and a  
11 brother died. Isn't that right?

12 A Yes.

13 Q You told them that the family was in financial difficulty,  
14 correct?

15 A Yes.

16 Q That your father was sick, right?

17 A Yes.

18 Q And you told them that your brother reached out to you  
19 from Santo Domingo, to help with the expenses and help heal  
20 your father, right?

21 A Yes.

22 Q And you said that was the reason why you then reached out  
23 to a guy you knew back home named Carlos for help, right?

24 A Yes.

25 Q And you told them, I wasn't sure if he was in the drug

Cross - "Maria" - Ricco

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1 business, but I knew he did shaky things. Right?

2 A Yes. Because they kept asking me, what is that? I knew  
3 it was drugs, but I really didn't know what it was.

4 Q Okay. You told the agents that you asked this Carlos guy,  
5 who happened to be in Ecuador, to lend you \$2,000, right?

6 A Yes.

7 Q And then you told the agents that some guy named Max was  
8 going to give you \$2,000, right?

9 A Yes. He was the one who gave me the 2,000 bucks.

10 Q Okay. For your participation in a drug transaction,  
11 right?

12 A Yes.

13 Q And you told the prosecutors that the only reason why you  
14 did this was because you wanted to help your sick father back  
15 in the Dominican Republic.

16 A To be honest, the day I was arrested, I need that money  
17 because my father was going through this thrombosis, and I  
18 wanted the \$2,000.

19 Q Okay. And that's the reason that you told the prosecutors  
20 during the proffer session, as to why you were involved in  
21 drugs, right?

22 A Yes.

23 Q And you told them, you didn't have any involvement in  
24 drugs before that, right?

25 A Yes.

Cross - "Maria" - Ricco

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1 Q You told them you were law-abiding, working in your  
2 cleaning business, right?

3 A Yes.

4 Q And you didn't know nothing about no drugs, right?

5 A I didn't know anything about drugs?

6 Q Right. Before this, before you -- before you were asked  
7 about the \$2,000. That's what you told them.

8 A Yes.

9 Q Now, you also told them that you had a boyfriend who had  
10 been in prison seven years for drugs.

11 A Yes.

12 Q And what was that boyfriend's name?

13 A Jose Diaz.

14 Q You told them that your husband, though, had no  
15 involvement in the drugs.

16 A No.

17 Q Now, before you were at the safety valve session, you knew  
18 that for what you had done and what you were arrested for, you  
19 were facing a minimum, a minimum of 10 years in federal prison.

20 A Yes.

21 Q And the way you could avoid that sentence was to come in,  
22 sit down with the prosecutors, and tell them the truth about  
23 what you had done, right?

24 A Yes. But if I could have gone in and told them that  
25 information, they were going to reduce my time. I wasn't only



Cross - "Maria" - Ricco

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1 -- so the two ways that you got taken off of safety valve, if  
2 you cooperate with them your sentence comes down. In fact,  
3 they can even set you free.

4 Q But you're supposed to tell the truth, though, right?

5 A Yes.

6 Q And if you lie and you get caught, it's 10 years, right?

7 A Yes.

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Cross - "Maria" - Ricco

260

1 Q Now before you went into safety valve, did you talk to  
2 your lawyer about what you were going to say?

3 MS. SHIHATA: Objection.

4 THE COURT: Sustained.

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Cross - "Maria" - Ricco

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1 Q Now, you also told them that in connection with this  
2 transaction that you got arrested for, you saw a black SUV and  
3 that made you a little suspicious, right?

4 A Can I just clarify that a bit for you?

5 Q Sure.

6 A When I was being asked those questions, he had to ask me  
7 that four times, because I was telling him the truth, and I was  
8 telling him what I -- he kept saying, why did you leave when  
9 you went to pick up the drugs on Jerome?

10 Because I -- and then I said to him, it was because my  
11 brother was on the line, and my brother said they left. And  
12 then he asked me again, why did you leave? I said, at the very  
13 end, I just said, well because I saw a black SUV and it was  
14 true. I had seen a black SUV stopped there.

15 So then he said, okay. But he had this.

16 Q Okay. And so you did see a black SUV?

17 A Yes.

18 Q So, what did you think the black SUV was?

19 A Well, officers.

20 Q And this was supposed to be your first drug transaction,  
21 right?

22 A When I went there and then I took off?

23 Q Yes.

24 A That was going to be -- no.

25 Q But you told them it was your first though, right?

Cross - "Maria" - Ricco

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- 1 A Yes.
- 2 Q It was a lie?
- 3 A Yes.
- 4 Q Now, after the safety valve session happened, the next
- 5 event that happened in your case is that a plea agreement was
- 6 reached with the government and you showed up in court one day
- 7 to plead guilty. Correct?
- 8 A Yes.
- 9 Q And that was, remember, August 5th, 2014?
- 10 A Yes.
- 11 Q And you had reached a plea agreement, right, with the
- 12 government?
- 13 A Okay.
- 14 Q Based on the story you told them.
- 15 A Okay.
- 16 Q Now, you went into court. It was a federal courtroom.
- 17 Isn't that correct?
- 18 A Yes.
- 19 Q Your judge was a female judge.
- 20 A Yes.
- 21 Q Judge Laura Taylor Swain, correct?
- 22 A Yes.
- 23 Q And she was very pleasant to you, correct?
- 24 A Yes.
- 25 Q Very nice smile, right?

Cross - "Maria" - Ricco

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1 A Yes.

2 Q And before you entered your plea, she told you to put your  
3 hand up, and she put you under oath.

4 A Yes.

5 Q And she said to you how important it was for you to be  
6 truthful, correct?

7 A Yes.

8 Q That the answers that you would give her would affect the  
9 sentence that she would ultimately impose, right?

10 A Yes.

11 Q And that she wanted and needed you to be honest. Right?

12 A Yes. Uh-huh. Yes.

13 Q And she also told you what would happen if you got caught  
14 not being truthful or giving false information. She told you,  
15 right?

16 A Yes.

17 Q She told you you could be prosecuted for perjury.

18 A Yes.

19 Q And so having been warned, you stood before the Court and  
20 entered your guilty plea based upon the story that you had told  
21 in the safety valve session. Isn't that correct?

22 A Yes.

23 Q And that story was false.

24 A That story, my dad was really bad and needed the money.

25 The only thing I didn't talk about was the part about Torres.

Cross - "Maria" - Ricco

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1 Then I told him everything that happened. I didn't tell them  
2 that I had picked up drugs before that time.

3 Q We're going to come to everything that you told them.  
4 I'll ask you some questions.

5 At the end of your guilty plea, a judge, a federal judge,  
6 addressed you directly and told you that the probation office  
7 will be preparing a presentence report to assist the Court in  
8 sentencing you, right?

9 A Yes.

10 Q She told you that they're going to conduct an interview of  
11 you, right?

12 A Yes.

13 Q And she said to you, it is most important that the  
14 information that you give to the probation officer be truthful  
15 and accurate. Isn't that what Judge Swain Taylor told you?  
16 Taylor Swain told you?

17 A Yes.

18 Q And she also said that you and your attorney will have an  
19 opportunity to examine the report and to comment on any  
20 inaccuracies, right?

21 A Yes.

22 Q She finally -- she also told you that your failure to be  
23 truthful with the probation office and the court may adversely  
24 affect the sentence to be imposed.

25 A Yes.

Cross - "Maria" - Ricco

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1 Q And then the judge asked you, do you understand that. And  
2 you said yes, right?

3 A Yes.

4 Q Now even though Judge Swain asked you to be honest, and  
5 told you how important it was to her decision, you again at  
6 probation, told the same story that you gave during the safety  
7 valve proffer session. Isn't that correct?

8 A Yes.

9 Q And you knew if you got caught you were going to get 10  
10 years, right?

11 A Yes.

12 Q But you didn't, did you?

13 A I wasn't lying, I just didn't tell them -- what I didn't  
14 tell them was what was going on with Torres. But I told them  
15 that I needed the money, how I got there. So --

16 Q On the day of sentencing, January 29th, 2015, you stood  
17 next to your lawyer, Matthew Kluger, in open court, and your  
18 lawyer repeated to Judge Swain the same story that you had told  
19 during the proffer session. You were standing right there,  
20 weren't you?

21 A Yes.

22 Q Now, before the proceedings started, Judge Swain  
23 specifically asked whether you had reviewed and discussed the  
24 presentence report with your attorney. And you said yes, you  
25 had. Correct?

Cross - "Maria" - Ricco

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1 A Yes.

2 Q And the first question that Judge Swain had from the  
3 presentence report was a notation in the presentence report  
4 about a telephone conversation --

5 THE INTERPRETER: The interpreter wanted to comment  
6 that the witness asked her to speak more loudly because the  
7 lawyer's voice is very strong.

8 MR. RICCO: I'm sorry. I've been told I have to  
9 stand by the -- I'm sorry, Judge.

10 BY MR. RICCO:

11 Q All right. I'll go back to the question. Before the  
12 judge got started, she had asked you whether or not you had  
13 discussed and reviewed the presentence report with your  
14 attorney, and you told Judge Swain yes, you had reviewed the  
15 report with your attorney.

16 A Yes.

17 Q And that was true. You did review the report with Matthew  
18 Kluger, didn't you?

19 A Yes.

20 Q And the first question Judge Swain had was about a  
21 telephone conversation that was in paragraph 10 of your  
22 presentence report involving you, right?

23 A You know, I don't remember.

24 Q Okay. M2-E. Do you remember that Judge Swain asked the  
25 question about a telephone conversation recorded by the agents



Cross - "Maria" - Ricco

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1 between you and the confidential informant. You remember that?

2 A Yes.

3 Q Okay. And in that call you are discussing the delivery of  
4 six kilograms of cocaine. Isn't that right?

5 A Yes.

6 Q And Judge Swain asked a question about that call, correct?

7 A Yes, I believe so because right now I can't recall.

8 MR. RICCO: I'm going to show the witness 35-M2-E,  
9 page 6, line 23.

10 THE INTERPRETER: Counselor, do you want the  
11 interpreter to read this to her?

12 MR. RICCO: Absolutely.

13 THE INTERPRETER: Okay.

14 MR. RICCO: And don't read it into the (inaudible).  
15 And let me know when you're finished reading it.

16 THE INTERPRETER: Except, what is the page you want  
17 me to read her, sir?

18 MR. RICCO: Line 23.

19 THE INTERPRETER: Thank you.

20 MR. RICCO: To the end of the page.

21 (Pause.)

22 MR. RICCO: Thank you very much. It's line 15,  
23 starting. Thank you very much.

24 THE INTERPRETER: Thank you.

25 (Pause.)

Cross - "Maria" - Ricco

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1 BY MR. RICCO:

2 Q Okay. You remember the call now? You remember the call  
3 now? Is that a yes or no?

4 A Yes.

5 Q Okay. And --

6 A I remember I spoke to him.

7 Q And in the call, you are overheard saying that you paid  
8 for one kilo, Carlos paid for one kilo, and the guy from  
9 Columbia paid for four kilos. That's what the call recorded.  
10 Isn't that correct?

11 A Yes.

12 Q And you were standing right by your lawyer when the judge  
13 asked that question, right?

14 A Yes.

15 Q And when he told the judge it was you in that phone call  
16 conversation, right?

17 A But Torres.

18 Q We're going to come to Torres, because Torres was not a  
19 subject at your sentence. I'm asking about what really  
20 happened at the sentencing. Okay?

21 THE INTERPRETER: Counselor, could you repeat that  
22 last part, please?

23 BY MR. RICCO:

24 Q I'm asking you about what really happened at your  
25 sentencing, what was really said. And I promise, we're going

Cross - "Maria" - Ricco

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1 to talk about Torres. Okay?

2 A Okay.

3 Q You were standing next to your lawyer when your lawyer  
4 acknowledged and admitted to the Court that that was in fact  
5 you in that telephone call, correct?

6 A Yes.

7 Q Did your lawyer explain to the judge, she might have said  
8 it, but she has no money and could not have possibly paid for a  
9 kilo of drugs? Right?

10 A Yes.

11 Q And when your lawyer said that to the judge, you didn't  
12 correct him, you didn't say anything, did you?

13 A No.

14 Q You've heard your lawyer say, Judge, she has no money, and  
15 there's no way she could have paid for one of those kilograms,  
16 correct?

17 A Yes.

18 Q You heard your lawyer say, she must have been just  
19 following the instructions of someone else. Right?

20 A Yes, because the problem is, is that I needed the \$2,000.  
21 The judge, how could I buy the judge? The judge, Judge Laura,  
22 said to Robert, which was also the U.S. Attorney's name, if her  
23 father is sick, how is she going to buy -- to get money to get  
24 \$2,000?

25 Q The judge said that? The judge said that?

Cross - "Maria" - Ricco

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1 A I, I don't know. I don't --

2 Q What was it that your lawyer said?

3 A That was, that was in 2000 -- I don't remember. I  
4 remember when you show me the paper, yes.

5 Q It's right there in front of you.

6 A It's true. If it's written there, it must be true.

7 Q Okay. Is it true?

8 A Yes.

9 Q Okay. Who was the person who told you to get on the phone  
10 and say that you paid for one kilogram of cocaine? Who told  
11 you to say that?

12 A Torres, because when I left to pick up the drugs and then  
13 I went again, I left -- I should say, I took off from him. I  
14 didn't do it.

15 Q Did you say that Torres told you to say you paid for one  
16 kilogram of cocaine?

17 A Torres didn't know that person. He said, you have to say  
18 that it's going to be for you so that he'll give you those  
19 drugs, so that he'll trust you.

20 Q So it was Torres who told you to say that?

21 A Torres and Carlos, they were the ones who would tell me to  
22 pick up the drugs. Sometimes the phone would be on speaker  
23 phone and this person was on the other phone.

24 Q Let's get back to being in front of Judge Swain. At no  
25 time when the judge asked you that question, asked you and your

Cross - "Maria" - Ricco

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1 lawyer that question, did you say that Torres or anybody else  
2 told you to say that. Isn't that correct?

3 A No, I wasn't going to put my family -- no.

4 Q Okay. Neither you nor your lawyer told Judge Swain that  
5 you were working off a debt of \$300,000 worth of drugs. Right?

6 A No.

7 Q In fact, what your lawyer told the judge with you standing  
8 by his side, is that you were a law-abiding citizen who only  
9 got involved in drugs because you felt obligated to help your  
10 family with medical bills. That's what was told the judge,  
11 right?

12 A Yes.

13 Q At no time did you admit to Judge Swain that the  
14 statements made in the safety valve session to get you below  
15 that 10-year mandatory minimum, was not truthful.

16 A No.

17 Q You hid the truth from Judge Swain, didn't you?

18 A Yes.

19 Q And Judge Swain treated you with dignity and respect,  
20 didn't she?

21 A Yes.

22 Q You didn't tell the judge anything about Deyberto Torres,  
23 did you? That's a question.

24 A And why do you have to say that whole name?

25 Q What's the answer to the question?

Cross - "Maria" - Ricco

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1 A But why do you have to say --

2 Q Did you tell Judge Swain anything about Deyberto Torres?  
3 Yes or no?

4 A No.

5 Q Nor did you ever tell Judge Swain that you were working  
6 off a \$300,000 debt to Deyberto Torres, isn't that correct?

7 A If something happens to my family from today on, you're  
8 the one who will be to blame for mentioning that complete name  
9 here.

10 Q Did you ever tell Judge Swain that you were working off a  
11 \$300,000 debt to anybody?

12 A No.

13 Q You also did not tell Judge Swain truthfully about the  
14 number of drug trips that you had taken. Isn't that correct?

15 A No.

16 Q You were presenting yourself as the law-abiding person who  
17 is just trying to help out her family. Right?

18 A Yes.

19 Q And that's now who you were, was it?

20 A My family has always come first for me.

21 Q You remember yesterday and today, you explained to the  
22 jury here, that one of the reasons why you didn't come forward  
23 with your story at the jail about force, rape, and threats, was  
24 because nobody would believe a criminal? You remember saying  
25 that to the jury yesterday?

Cross - "Maria" - Ricco

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1 A Yes.

2 Q Now, when you was before Judge Swain under oath, and that  
3 judge gave you the opportunity for you to tell the truth, you  
4 didn't. Right?

5 A No.

6 Q It was you, Maria, who decided not to be truthful before  
7 Judge Swain. Isn't that right?

8 A I was not going to put my family in danger again. No.

9 Q That was not an idea that your lawyer told you to do. You  
10 did it yourself.

11 A Yes.

12 Q You got what you wanted, right? Right?

13 A Yes.

14 Q Judge Swain believed your story and gave you a sentence  
15 far below 10 years. Isn't that right?

16 A The half of that five, yes. That's true.

17 Q Okay. And by the way, you also wasn't honest with your  
18 own lawyer. Isn't that correct?

19 A No. That was my -- we're talking about my family's life.  
20 The other lawyer told me that they were calling him.

21 Q Sure the lawyer said that. Was that what you said --

22 A No.

23 Q To the jury?

24 MS. SHIHATA: Objection.

25 THE WITNESS: No.

Cross - "Maria" - Ricco

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1 THE COURT: Where are we?

2 MR. RICCO: Judge, I can ask another question. We're  
3 kind of halfway through it, but I'll ask another question. I  
4 think I'm (inaudible).

5 BY MR. RICCO:

6 Q Yesterday, we're going to get to MDC, you told us that  
7 your husband, your husband never visited you one day when you  
8 was in jail at MDC. Not one single visit.

9 A Not one.

10 Q No phone calls?

11 A No.

12 Q No letters?

13 A No.

14 Q No emails?

15 A No.

16 Q Because he --

17 A I tried.

18 Q He didn't want anything to do with drug dealing. Right?

19 A No. It was -- that was not the reason.

20 Q What was the reason?

21 A We were separated because he went to the Dominican  
22 Republic and he went to bed with my brother, Emiliano's wife.  
23 With Lisette. So we were having problems. I said that I could  
24 not forgive that.

25 Q Okay. Did he know about your boyfriend, who was serving



Cross - "Maria" - Ricco

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1 seven years in prison for drugs?

2 MS. SHIHATA: Objection.

3 MR. RICCO: Withdrawn. I'll withdraw the question.

4 I'll withdraw the question.

5 BY MR. RICCO:

6 Q Did you ever discuss with your husband, Jose Diaz, doing

7 seven years in prison for drugs?

8 A Yes, he knew.

9 Q Okay. And let's talk about Ramon, the guy who you owed  
10 \$11,500 to, right? The guy who was supposed to be paying the  
11 lawyer, right?

12 A Yes.

13 Q Who is he?

14 A A friend of mine.

15 Q Did he, Ramon --

16 A A very, very good friend.

17 Q Did he, Ramon, ever visit you at the MDC?

18 A No.

19 Q Not one time?

20 A As much as I asked him to, he didn't.

21 Q What was his phone number again?

22 MS. SHIHATA: Objection.

23 THE COURT: Did she testify to it already?

24 MS. SHIHATA: No, she didn't.

25 MR. RICCO: Well, the phone records are going to come

Cross - "Maria" - Ricco

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1 into evidence, Judge.

2 MS. SHIHATA: It's not his point, I can --

3 MR. RICCO: I'll withdraw the question. I'll move  
4 on.

5 BY MR. RICCO:

6 Q The guy, Ramon, came to court, though, didn't he? He was  
7 there on the day you were sentenced.

8 THE INTERPRETER: Counselor.

9 THE WITNESS: Do you mean in the courtroom with Judge  
10 Laura?

11 BY MR. RICCO:

12 Q Yes.

13 A Yes, he was there.

14 Q And your lawyer talked about him to the judge, right?

15 A Yes.

16 Q He explained to the judge that Ramon was the family friend  
17 and supportive of you, right?

18 A Yes.

19 Q And that Ramon had assisted the lawyer in gathering all of  
20 the information that was put before the court about you, right?

21 A Yes.

22 Q The court was told, he was the only friend that you had  
23 that was very helpful. Right?

24 A Yes. He was like, like my brother. Like --

25 Q Okay. I'm going to go to MCC.

Cross - "Maria" - Ricco

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1 A Okay.

2 Q All right. Now yesterday, you told us about a woman in  
3 MCC that you knew by the name of Jenny, right?

4 A Yes.

5 Q And you told the jury something about she had gotten into  
6 trouble and she was transferred to MCC, right?

7 A Yes.

8 Q And you didn't want to be in her situation, right?

9 A No. She was really nervous and she cried all the time.

10 Q Okay. And what was she crying about?

11 A I don't know. Some investigators came to Manhattan,  
12 women. They took her out, and then she came back to the room  
13 crying. She said she was supposed to leave on the 10th and now  
14 she didn't know if she was going to get out.

15 Q Okay. You never wanted to have that kind of problem.  
16 Isn't that correct?

17 A No.

18 Q Now, you also did not tell us yesterday about a woman at  
19 the jail named Ingrid. You remember Ingrid?

20 A Yes.

21 Q Ingrid was a woman at the jail that was having sex --

22 MS. SHIHATA: Objection. Can we have a sidebar,  
23 Judge?

24 THE COURT: Yes.

25

Cross - "Maria" - Ricco

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1 (Conference held at sidebar.)

2 THE COURT: Okay. What's the question first, so I  
3 can hear it in full?

4 MR. RICCO: With two staff people, and ultimately the  
5 question says that she told on one of them. She reported it.  
6 And that our witness was angry because she didn't report both  
7 men. That's the extent of the questions.

8 MS. ARGENTIERI: Judge, first of all, I thought we  
9 were going to get notice before a topic like this came up. But  
10 I don't see what that --

11 MR. RICCO: A topic like what?

12 MS. ARGENTIERI: I don't think that there's any  
13 relevance. Again, this is another way to introduce the theory  
14 that Mr. Rico opened on, which is that other staff members were  
15 having sex with other inmates, and I really think it's going to  
16 open a whole Pandora's Box. It's not particularly relevant,  
17 and I think this is a way to squeeze that in.

18 It's just not relevant to the crime on trial. All of  
19 these other instances of inmate/staff sex are crimes, because  
20 an inmate cannot consent. And I don't see how this is at all  
21 relevant. She didn't testify to it yesterday. So I don't even  
22 know how it's appropriate cross.

23 MR. RICCO: Judge --

24 THE COURT: I don't like to do this at the sidebar  
25 when it gets complicated.

Cross - "Maria" - Ricco

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1 THE COURT: Ladies and gentlemen, let's take a five-  
2 minute recess.

3 MR. RICCO: Thank you. Judge.

4 THE COURT: We can do it in open --

5 THE CLERK: All rise.

6 (Jury exits the courtroom.)

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Cross - "Maria" - Ricco

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1 THE COURT: First of all, Mr. Ricco, why don't you  
2 ask the questions? Sit down outside of the presence of the  
3 jury so I can hear the questions and the answer.

4 MS. SHIHATA: Should the --

5 THE COURT: No --

6 MS. SHIHATA: Should the witness be here?

7 THE COURT: -- I want him to ask the questions.

8 MS. SHIHATA: Your Honor, I'm just asking if you want  
9 the witness to be in --

10 THE COURT: Yeah, I want him to ask --

11 MS. SHIHATA: Sorry, Judge.

12 THE COURT: I want him to ask her --

13 MS. SHIHATA: I'm sorry. I'm sorry.

14 MR. RICCO: Oh, I see.

15 THE COURT: -- the questions.

16 MS. SHIHATA: I misunderstood. I'm sorry.

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Cross - "Maria" - Ricco

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1 BY MR. RICCO:

2 Q Ingrid was having sex with two men at the jail. Isn't  
3 that correct?

4 A Yes. That's what they were doing, yes.

5 Q One was the Chief of commissary.

6 A Uh-huh. Yes.

7 Q And the other was a regular correction guard, correct?

8 A Yes.

9 Q Ingrid complained to the chaplain. Isn't that correct?

10 A Yes.

11 Q As a result of that complaint, one guard was put in jail.

12 A When she made that complaint, she was taken to Brooklyn to  
13 the SHU immediately. And then I don't know what happened after  
14 that to the officer.

15 MR. RICCO: Can we have 3500-M4, page 2, please?

16 (Pause.)

17 THE COURT: Could the ESR operator read back to me  
18 the last question so I can -- yes, now. The one that Mr. Ricco  
19 just asked. Wait, Mr. Ricco.

20 (Thereupon, the previous question was played back for the  
21 record.)

22 THE COURT: No, the question back before that.

23 THE COURT RECORDER: The question preceding that?

24 (Thereupon, the question was played back for the record.)

25 THE COURT: Okay. All right.

Cross - "Maria" - Ricco

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1 MS. ARGENTIERI: I don't think the witness said she  
2 didn't remember. I think she said she didn't know.

3 MR. RICCO: Judge, I'll ask another question. I'm  
4 good. Where I'm going, I'm fine. I'm fine what I don't know  
5 what happened to him.

6 MS. ARGENTIERI: I don't think it (inaudible).

7 MR. RICCO: No, no, no, please, don't do that with my  
8 witnesses. Thank you. I'm good. Please, finish. Don't  
9 control my witnesses.

10 MS. SHIHATA: We need to be near a microphone.

11 MS. ARGENTIERI: Judge, I think I'm objecting to the  
12 refreshing of the recollection by the reading of the document  
13 when the witness didn't say she couldn't remember. That's what  
14 I was objecting to.

15 MR. RICCO: Then I'll ask the next question.

16 MS. ARGENTIERI: And that's why I was asking if the  
17 interpreter be directed to stop reading the document because  
18 she's reading it to her to refresh her recollection, when she  
19 didn't say she didn't remember.

20 MR. RICCO: Yeah, but I don't think that you can  
21 stand up in the courtroom and direct people what to do. That's  
22 not the prosecutor's function.

23 THE COURT: All right.

24 MR. RICCO: I'm prepared to ask a question if the  
25 interpreter is ready.



Cross - "Maria" - Ricco

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1 THE COURT: Go ahead.

2 MR. RICCO: All right.

3 THE INTERPRETER: But just to be clear, Your Honor,  
4 the interpreter has not finished translating the paragraph, so  
5 it should just that it's --

6 MR. RICCO: I'm okay.

7 THE INTERPRETER: Okay.

8 BY MR. RICCO:

9 Q You knew from the experience with Ingrid --

10 THE INTERPRETER: Sir, one second, counselor. Sorry.

11 BY MR. RICCO:

12 Q You knew from the experience with Ingrid, that you could  
13 make a complaint to the Bureau of Prisons chaplain. Isn't that  
14 correct?

15 A Yes, sir. She was taken back to the SHU, and her other  
16 girlfriend, she had nothing to do with this, she was separated  
17 from us. She didn't go to the SHU because there is no SHU at  
18 the MDC.

19 Q My question was this, you knew as a result of your  
20 experiences with Ingrid, that you could make a -- that a  
21 complaint could be made to the chaplain. Isn't that correct?

22 A Yes.

23 Q And in fact, you were angry with Ingrid because she didn't  
24 report both men to the chaplain. Isn't that correct?

25 A Yes.

Cross - "Maria" - Ricco

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1 Q That's -- those are my questions.

2 A No, not me. Well, well, yes.

3 Q Okay.

4 MR. RICCO: Judge, that was the purpose of those  
5 questions.

6 THE COURT: Okay.

7 MR. RICCO: And I'm prepared to argue the relevancy  
8 of that --

9 THE COURT: Okay, you want to ask her -- Paula.

10 UNIDENTIFIED SPEAKER: Yes.

11 (Witness leaves the stand.)

12 (Pause.)

13 THE COURT: I don't think, so that you know what to  
14 argue, that those Q and As come within the ambit of your  
15 objection.

16 MS. ARGENTIERI: Oh, I'm sorry, Judge. I have to  
17 speak into the microphone.

18 I think that the Q and A is about the sex between --  
19 if all that Mr. Ricco wanted to establish, from what I  
20 understand from what he just said, couldn't he just ask the  
21 witness, you were aware that you could also report complaints  
22 of abuse to the chaplain? Why is the whole episode between  
23 Ingrid and the guards relevant? I think it opens the door to  
24 questions for the jury about what happened to those people.  
25 And I also think the witness's basis of knowledge for most of

Cross - "Maria" - Ricco

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1 that is jailhouse gossip. And I think it's confusing.

2 I actually think that one of those guards was a  
3 defendant before Your Honor and was charged criminally.

4 THE COURT: What does that have to do with anything?

5 MS. ARGENTIERI: Well, Judge, what I think it has to  
6 do with is I do think that at the end of the day, Mr. Ricco is  
7 going to use this example to argue to the jury that other  
8 guards at the jail were having sex. It's what he opened on,  
9 and --

10 THE COURT: Are you going to -- is that what you're  
11 going to use this for?

12 MR. RICCO: No, Judge. And I can't help the  
13 government with their suspicions.

14 MS. ARGENTIERI: Judge, he specifically -- I'm sorry.  
15 I didn't mean to interrupt you.

16 THE COURT: Go ahead.

17 MS. ARGENTIERI: He specifically opened on that, and  
18 we had a whole argument about it on Monday.

19 THE COURT: We had a truncated argument because I  
20 said I didn't want to keep the jury locked up.

21 MS. ARGENTIERI: That's correct, Judge.

22 THE COURT: So it was --

23 MS. ARGENTIERI: I didn't mean to make it sound like  
24 it was long. We had a truncated argument on that. But I do  
25 think that is an argument -- it's my understanding he was going

Cross - "Maria" - Ricco

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1 to make based on his opening, and I don't understand --

2 MR. RICCO: I am.

3 THE COURT: Well, first of all, this Q and A does not  
4 support such a broad argument. And I think --

5 MS. ARGENTIERI: Will we be able to --

6 THE COURT: I think, I think --

7 MR. RICCO: And nor, Judge --

8 THE COURT: And I think my feeling is that it's  
9 relevant. So I'm going to overrule the objection. Bring back  
10 the witness. Let's have the jury.

11 MS. SHIHATA: Yes, Judge. Judge, before we do that,  
12 just one thing.

13 MR. RICCO: Yes. Go ahead. Whatever.

14 Judge, the government has a witness that they've got  
15 to get out, and I'm okay.

16 THE COURT: Okay. So I'll tell the jury we're taking  
17 witness out of turn because it's just necessary for the  
18 convenience of the witness. Bring in the witness.

19 (Pause.)

20 MS. SHIHATA: The agent just went to get her.

21 (Pause.)

22 (Conference concludes at sidebar)

23

24

25

Direct - Vargas - Shihata

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1 (Jury enters the courtroom.)

2 THE COURT: Ladies and gentlemen, we're going to  
3 interrupt the cross-examination of the last witness to take the  
4 testimony of another witness that's very brief and that it's  
5 for the convenience of the witness, so that -- who has to --  
6 has a problem that requires her to leave, and we don't want to  
7 make her come back unnecessarily. So she's going to be short  
8 and then we'll go back to the cross-examination.

9 Would you raise your right hand, please?

10 LARIELY VARGAS, GOVERNMENT'S WITNESS, SWORN

11 DIRECT EXAMINATION

12 BY MS. SHIHATA:

13 Q Good afternoon. What is your name?

14 A Larihelys Vargas.

15 Q And is Spanish your native language?

16 A Yes.

17 Q Do you speak and understand some English?

18 A Yes.

19 Q Are you more comfortable testifying in court today in  
20 Spanish?

21 A Yes.

22 Q How old are you?

23 A Twenty-seven.

24 Q And where are you from?

25 A The Dominican Republic.

Direct - Vargas - Shihata

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- 1 Q And how old were you when you moved to the United States?
- 2 A Nineteen, more or less.
- 3 Q And how far did you go in school?
- 4 A Some college.
- 5 Q Do you currently have a job?
- 6 A Yes.
- 7 Q And what do you do?
- 8 A I work in a warehouse.
- 9 Q And what do you do in the warehouse?
- 10 A I am a QC person.
- 11 Q Is that for -- does that stand for quality control?
- 12 A Yes.
- 13 Q And do you have any kids?
- 14 A Yes.
- 15 Q How many?
- 16 A One.
- 17 Q And what state do you currently live in?
- 18 A The State of Indiana.
- 19 Q And have you ever lived in New York City?
- 20 A Yes.
- 21 Q Around when did you live in New York City?
- 22 A Until 2014.
- 23 Q When did you start living in New York City?
- 24 A In 2009.
- 25 Q I'm showing you what's in evidence as Government's Exhibit

Direct - Vargas - Shihata

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1 2. Do you recognize the person in this photograph?

2 A Yes.

3 Q And without saying her name, do you know this person's  
4 name?

5 A Yes.

6 Q I'm showing you what's in evidence as Government Exhibit

7 2A. Is this the same picture I just showed you with a name  
8 written underneath?

9 A Yes.

10 Q And is this the name you know this woman by?

11 A Yes.

12 Q Now, for purposes of your testimony here today, we're  
13 going to refer to the woman depicted in Government Exhibit 2 as  
14 Maria. Okay?

15 A Agreed. Okay.

16 Q Around when did you first meet Maria?

17 A Around 2011, 2012.

18 Q And how do you know her?

19 A We worked together.

20 Q What did you work together doing?

21 A Cleaning hotels.

22 Q And did you become friends?

23 A Yes.

24 Q At some point did you learn that Maria was in jail?

25 A Yes.

Direct - Vargas - Shihata

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- 1 Q Do you recall exactly when you found that out?
- 2 A In 2013.
- 3 Q And were you in contact with Maria while she was in jail?
- 4 A Yes.
- 5 Q How were you in contact with her?
- 6 A By phone.
- 7 Q And at some point while she was in jail, did you leave New
- 8 York City?
- 9 A Yes.
- 10 Q Where did you go?
- 11 A To Buffalo.
- 12 Q And why did you go there?
- 13 A To go to school.
- 14 Q And when you were in contact, you said you were in contact
- 15 with her by telephone. Is that correct?
- 16 A Yes.
- 17 Q What was your telephone number at the time?
- 18 A 347-828-4827.
- 19 Q And were you able to call Maria in jail?
- 20 A No.
- 21 Q But she was able to call you. Is that correct?
- 22 A Yes.
- 23 Q And to your knowledge were her calls to you recorded?
- 24 A Yes.
- 25 Q And how did you know that?



Direct - Vargas - Shihata

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1 A From the machine that is heard when somebody from the jail  
2 makes a call to you.

3 Q So there's a recording telling you that it's being  
4 recorded?

5 A Yes.

6 Q Now in one of your phone calls with Maria, when she called  
7 you from jail, did she ever ask you to do a favor for her?

8 A Yes.

9 Q What favor did she ask you to do?

10 A To look somebody up on Facebook.

11 Q And sitting here today, do you remember who she asked you,  
12 whose Facebook page she'd asked you to look up?

13 A I don't remember the name.

14 Q Did she give you a name?

15 A Yes.

16 Q And do you recall whether the name was of a man or a  
17 woman?

18 A Of a man.

19 Q And did she say anything else about that man that you  
20 recall?

21 A Yes.

22 Q What do you recall?

23 A She said he was a guard who worked where she was.

24 Q And did you look the guard up on Facebook?

25 A Yes.

Direct - Vargas - Shihata

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1 Q And what if anything did you do before looking him up on  
2 Facebook?

3 A Delete Maria from my friends.

4 Q And why did you do that?

5 A So he wouldn't see that we had a friend in common.

6 Q And did she ask you to do that?

7 A Yes.

8 Q And what if anything did you do once you found the guard's  
9 Facebook page?

10 A Look at his pictures.

11 Q And did you send him a friend request?

12 A Yes.

13 Q Did you send him any messages?

14 A Yes.

15 Q Do you recall what any of those messages said?

16 A Yes.

17 Q What do you recall?

18 A I sent him one saying hi.

19 Q Do you recall anything else?

20 A And he asked me who I was.

21 Q Now, you said you looked at photos on his Facebook page.  
22 Is that correct?

23 A Yes.

24 Q And did you describe those photos to anyone?

25 A Yes.

Direct - Vargas - Shihata

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1 Q Who did you describe them to?

2 A To Maria.

3 Q And sitting here today, do you remember any of the  
4 specific photos that you described on that man -- on the  
5 guard's Facebook page?

6 A Yes.

7 Q What do you recall?

8 A There were women.

9 Q And do you recall anything more specific than that?

10 A No.

11 Q Now, after describing photos on the guard's Facebook page  
12 to Maria, did you speak to her again by telephone?

13 A Yes.

14 Q And what if anything did she ask you to do in relation to  
15 the guard's Facebook page?

16 A To delete him.

17 Q And did Maria tell you why she wanted you to -- do you  
18 recall whether Maria told you why she wanted you to look this  
19 guard up on Facebook?

20 A No.

21 MS. SHIHATA: One moment, Your Honor.

22 (Pause.)

23 MS. SHIHATA: No further questions.

24 THE COURT: Thank you.

25

Cross - Vargas - Ricco

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1 CROSS-EXAMINATION

2 BY MR. RICCO:

3 Q Good afternoon, Ms. Vargas.

4 A Good afternoon.

5 Q Just a couple of questions. All right. Maria had  
6 contacted you and asked you to do a Facebook connection, right?

7 A Yes.

8 Q And you asked her why.

9 A Yes.

10 Q And she said she just wanted to know?

11 A Yes.

12 Q She did not tell you exactly what it was, but she said,  
13 look him up, right?

14 A Correct. Yes.

15 Q She was being very discreet, correct?

16 A Yes.

17 Q And you didn't know what kind of relationship that was  
18 going on between him and her. Isn't that correct? You didn't  
19 know?

20 A No.

21 Q Because she was being very discreet. She didn't say  
22 anything.

23 A She didn't tell me, no.

24 Q And, but you thought it was something going on, right?

25 A Yes.

Cross - Vargas - Ricco

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1 Q Because she asked you to look him up. Right?

2 A Yes.

3 Q And she did tell you that she likes the person that works  
4 there, right?

5 A No.

6 Q Okay. I'm going to show you 35-LB-2. 3500-LB-2, page 2.  
7 Last paragraph. If you could read the last paragraph.

8 MS. SHIHATA: Judge, I'm sorry, I just have an  
9 objection because she didn't --

10 MR. RICCO: Oh, I'm sorry.

11 MS. SHIHATA: I'm sorry.

12 MR. RICCO: Okay. No, I'll rephrase the question.

13 BY MR. RICCO:

14 Q You were interviewed, were you not, by agents in this  
15 case. Isn't that correct?

16 A Yes.

17 Q And they asked you questions, didn't they?

18 A Yes.

19 Q And in response to one of those questions you told them  
20 she said she likes the person that works there. Not sure if  
21 she liked him or he was hitting on her. You didn't know. Did  
22 you tell the agents that when you were interviewed by them?

23 A Could you repeat that question? I didn't understand it.

24 Q Okay. In connection with this case you were interviewed  
25 by some law enforcement people, correct?

Cross - Vargas - Ricco

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1 A Yes.

2 Q There were prosecutors there?

3 A Yes.

4 Q And some agents were there.

5 A Yes.

6 Q And they asked you questions about this phone call, didn't  
7 they?

8 A Yes.

9 Q And in response to one of those questions didn't you tell  
10 them she said she likes the person that works there. Not sure  
11 if she liked him or he was hitting on her. You didn't know.

12 A I didn't know.

13 Q Okay. And what about the other part?

14 A What part?

15 Q Okay. Did you say to the agents and the prosecutors  
16 present on May 5th, 2017 in response to a question that she  
17 said she likes the person that works there, not sure. If she  
18 liked him or it was him hitting on her. Did you say that to  
19 the agents in response to a question on May 5th, 2017?

20 A I don't know if she liked him and I don't know if he was  
21 hitting on her.

22 Q The question is did she say that she did?

23 THE INTERPRETER: By the interpreter, counselor, your  
24 voice dropped at the very end.

25 Q Did Maria say to you that she liked the person?

Cross - Vargas - Ricco

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1 A No.

2 Q And you never said that to the agents in response to a  
3 question on May 5th, 2017?

4 A Not that I remember.

5 Q I'm going to show you something and see if it refreshes  
6 your recollection.

7 That would be, Your Honor. 35LV2, page 2.

8 (Pause.)

9 Having read 3500LV2, page 2, does that help refresh  
10 your recollection as to what you said to the agents when they  
11 interviewed you in May of 2017?

12 A Yes.

13 Q Did you say to them --

14 A What I said was that I thought something was going on.  
15 She never told me that there was.

16 Q Okay. My question is did you tell the agents -- does that  
17 refresh your recollection that you told the agents that Maria  
18 said to you she liked the person at the jail?

19 A I never said that she liked the person. That she told me  
20 that she liked the person.

21 Q That's my question. That's what Maria said to you, right?

22 A No.

23 Q Never happened.

24 A That never happened that I remember.

25 Q You were asked questions about -- sorry.

1           You were asked questions about your Facebook contact,  
2 remember, just a couple of minutes ago?

3     A     Yes.

4     Q     And you were asked did you message the person, right?

5     A     Yes.

6     Q     You said you really don't remember the conversation,  
7 right?

8     A     Not very much.

9     Q     Isn't one of the things that you asked him was whether or  
10 not he was married?

11    A     I don't remember.

12    Q     Okay.     And that's because it happened a long time ago,  
13 right?

14    A     Yes.

15    Q     And I'm sure you've done thousands of Facebook texts and  
16 messages between then and now, right?

17    A     Yes.

18    Q     But you could have asked him that, couldn't you.

19    A     Well, I don't remember.

20    Q     Okay.     We got the Facebook records.

21    A     Okay.

22    Q     But you do remember that you went looking through his  
23 pictures.

24    A     Yes.

25    Q     What were you looking for?



1 A Were there any women.

2 Q That you remember.

3 A Yes.

4 Q And you reported back to Maria that you found pictures of  
5 other women, right?

6 A I don't remember whether or not I told her that I saw  
7 other pictures of women.

8 Q Okay. But you do remember that after you went on this  
9 search on his Facebook page you found pictures of women, right?

10 A I don't remember having found photographs of women.

11 Q So you don't remember whether or not you found any  
12 photographs, right?

13 A Not of women.

14 Q You don't remember -- well, what photographs did you find  
15 that you remember?

16 A Of the man with other men. That's it. I mean groups of  
17 men.

18 Q And you have no recollection of having a conversation with  
19 Maria about finding women on his Facebook page. That's your  
20 testimony before this jury? No recollection.

21 A Yes.

22 Q But you do remember seeing pictures of him and other men  
23 though. That's your testimony.

24 A Yes.

25 Q By the way, and I'm going to ask you -- perhaps you don't

Redirect - Vargas - Shihata

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1 remember, did you ever say to Maria -- did you ever ask him a  
2 question does he, the guy you were looking at, kiss you?

3 Do you ever remember asking that question to Maria?

4 A No.

5 Q Definitely didn't ask her anything like that, did you?

6 A I don't remember.

7 MR. RICCO: Thank you very much for your testimony.

8 MS. SHIHATA: Just briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. SHIHATA:

11 Q Ms. Vargas, the phone call that we're talking about and  
12 the Facebook page that you went on, that was several years ago.  
13 Is that correct?

14 A Yes.

15 Q Do you have a clear memory of everything you discussed on  
16 that call sitting here today?

17 A Not clear.

18 Q And do you have a clear memory of everything you saw on  
19 the Facebook page you looked up sitting here today?

20 A Not clear.

21 Q By the way, do you have any idea what this trial is about?

22 A No.

23 MS. SHIHATA: Nothing further.

24

25

Recross - Vargas - Ricco/Direct - Lopez - Argentieri

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1 RECROSS EXAMINATION

2 BY MR. RICCO:

3 Q What you do remember is what you told us, right?

4 A Yes.

5 Q And you know that this trial involves your friend, Maria,  
6 don't you?

7 A Yes.

8 MR. RICCO: No further questions.

9 THE COURT: Okay. You could step down.

10 (Witness excused.)

11 THE COURT: Ladies and gentlemen, you need to step  
12 out again, I'm sorry. Just for a couple of minutes.

13 MS. SHIHATA: Judge, we have one other out of order  
14 short witness.

15 THE COURT: Oh.

16 MS. ARGENTIERI: The government calls Noel Lopez.

17 NOEL LOPEZ, GOVERNMENT'S WITNESS, SWORN

18 DIRECT EXAMINATION

19 BY MS. ARGENTIERI:

20 Q Sir, can you state and spell your name for the record.

21 A Noel Lopez, N-O-E-L. Lopez is L-O-P-E-Z.

22 Q How old are you?

23 A 34.

24 Q Where did you grow up?

25 A In the Dominican Republic.

Direct - Lopez - Argentieri

302

1 Q When did you move to the United States?

2 A In 1995.

3 Q How old were you then?

4 A Ten.

5 Q What languages do you speak?

6 A Spanish.

7 Q And, obviously, English?

8 A Yes.

9 Q I'm showing you Government Exhibit 2 in evidence. Do you  
10 recognize this person?

11 A Yes.

12 Q Without saying it, do you know this person's name?

13 A Yes.

14 MS. ARGENTIERI: May I approach, Judge?

15 THE COURT: You may.

16 Q I'm showing the witness Government 2A in evidence. Is  
17 this a photo of the same person in Government Exhibit 2 that I  
18 just showed you?

19 A Yes.

20 Q And below the photo, is that the name that you know this  
21 person by?

22 A Yes.

23 Q Can we agree that for the --

24 THE CLERK: Microphone.

25 MS. ARGENTIERI: Oh, sorry.

Direct - Lopez - Argentieri

303

- 1 Q Can we agree for the purposes of your testimony here today  
2 we'll refer to the person in Government Exhibit 2 as Maria?
- 3 A Yes.
- 4 Q Okay. For how long have you known Maria?
- 5 A From 2006.
- 6 Q And how did you meet?
- 7 A On a trip to the Dominican Republic.
- 8 Q Did you stay in touch?
- 9 A By Facebook.
- 10 Q And how else would you speak?
- 11 A Facebook for a while.
- 12 Q And then at some point did Maria move to the United  
13 States?
- 14 A Yes.
- 15 Q And when Maria moved to the United States, what contact  
16 did you have?
- 17 A We had Facebook and phone. Cell phones.
- 18 Q And when, if ever, did you see each other in person?
- 19 A Excuse me?
- 20 Q Did you ever see each other in person?
- 21 A Yes.
- 22 Q And was that before she was arrested?
- 23 A Before she was arrested.
- 24 Q Now after Maria was arrested, what, if any, contact did  
25 you have with her?

Direct - Lopez - Argentieri

304

- 1 A Before she was arrested you're saying?
- 2 Q I said after.
- 3 A After. We talk on Facebook and cell phones.
- 4 Q So after she was arrested, were you aware of whether she
- 5 was incarcerated?
- 6 A No, no idea.
- 7 Q When she was in jail?
- 8 A I'm sorry. I'm not understanding the question.
- 9 Q Okay. Are you nervous?
- 10 A A little bit.
- 11 Q Do you want to be here today?
- 12 A No, I don't want to be here today?
- 13 Q Are you testifying pursuant to a subpoena?
- 14 A Yes.
- 15 Q Okay. At some point was Maria in prison?
- 16 A Yes.
- 17 Q When she was in prison, did she call you on the phone?
- 18 A Yes, she did call me on the phone.
- 19 Q And on what telephone number did she call you from prison?
- 20 A 203-736-7740.
- 21 Q And when you spoke to Maria on the phone, how did she
- 22 sound?
- 23 A She sounded nervous, scared, afraid and she sounded like
- 24 she needed to talk to someone.
- 25 Q When you spoke to her on the phone, what, if anything, did

Direct - Lopez - Argentieri

305

- 1 she ask you to do?
- 2 A She was asking me to go see her.
- 3 Q Did you want to go see her?
- 4 A Yes, I wanted to go see her.
- 5 Q Okay. On how many occasions did you go visit her in jail?
- 6 A Just one time.
- 7 Q And where did you go to visit her in jail?
- 8 A At the Metropolitan Correctional Center.
- 9 Q Do you remember what borough the jail was in?
- 10 A What part?
- 11 Q What part of New York it was in?
- 12 A Brooklyn.
- 13 Q Do you know the name of the jail?
- 14 A No -- Metropolitan -- no idea.
- 15 Q Okay. So you went to visit her at a jail in Brooklyn.
- 16 A Yes.
- 17 Q Do you recall approximately what year that was?
- 18 A Some time in 2016.
- 19 Q And what was the weather outside?
- 20 A It was cold so it was winter time.
- 21 Q Where did you visit with Maria in the jail?
- 22 A At the visitors center.
- 23 Q And what language do you speak to Maria?
- 24 A Spanish.
- 25 Q Does she speak English?

Direct - Lopez - Argentieri/Cross - Lopez - Ricco

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1 A No.

2 Q When you -- how long did you visit with Maria?

3 A For about three and half hours.

4 Q Now when you -- when Maria first saw you, how did she  
5 appear?

6 A When she first saw me she was happy to see me there.

7 Q What did you observe about how Maria looked during your  
8 visit?

9 A Seeing me there she was happy, but on one side she was not  
10 -- she wasn't seeming so happy.

11 Q What did she look like?

12 A Sad. A little be nervous, lonely, desperate.

13 Q Now what, if anything, did she ask you to do during the  
14 visit?

15 A She asked me to give her a hug and a kiss.

16 Q Where did she ask you to kiss her?

17 A On her lips.

18 Q Did you find that odd?

19 A Yes, I did.

20 Q Why?

21 A Because she's just my friend. She's not -- she was not my  
22 girlfriend. It was just a friend.

23 Q What did you do?

24 A I gave her a hug and I kissed her.

25 Q Now when you first met with the government did you tell



Direct - Lopez - Argentieri/Cross - Lopez - Ricco

307

1 the truth about the fact that she asked you to kiss her?

2 A No.

3 Q How come?

4 A Because I'm married and I felt this was going to cause me  
5 an issue.

6 Q But later did you tell the truth?

7 A Yes.

8 Q Why?

9 A Because I felt like I wanted to say the truth.

10 Q Now after you left the prison did Maria still call you?

11 A She did call me.

12 MS. ARGENTIERI: May I have one second, Judge?

13 (Pause.)

14 MS. ARGENTIERI: No further questions.

15 CROSS EXAMINATION

16 BY MR. RICCO:

17 Q Mr. Lopez, good afternoon.

18 A Good afternoon.

19 Q Okay. You know, you were asked a question and you gave a  
20 hesitation. And you were asked did you want to go visit Maria  
21 at the jail and you paused for a second, right?

22 A Yes.

23 Q It wasn't my impression. You paused, right?

24 A Yes, I did.

25 Q And if I'm wrong, correct me. Is it -- was it difficult

Cross - Lopez - Ricco

308

1 for you to because it was hard for you to go see someone that  
2 you like and care about inside of a jail?

3 A No, it was not like that. The reason why I went to visit  
4 her because she kept asking me to go visit her. She was begging  
5 me to see her.

6 Q My question was why did you hesitate when you were asked  
7 the question whether or not you wanted to visit her there.

8 A I'm not -- I'm not understanding.

9 Q Okay. You met Maria around 2006.

10 A Six, yes.

11 Q And she was arrested around 2013, right?

12 A I have no idea. I didn't know she was arrested. She  
13 called me when she was arrested, but I didn't know she was.

14 Q You mean, she called you after she was arrested.

15 A Yes.

16 Q So from the time you knew her in 2006 up until the time  
17 that you get that phone call about her being arrested, you had  
18 no clue whatsoever that she was involved in drugs or anything  
19 like that.

20 A I had no idea.

21 Q Right?

22 A No idea.

23 Q That's not something that was a part of your relationship  
24 with her, right?

25 A No.

Cross - Lopez - Ricco

309

1 Q It was something that was never discussed or anything,  
2 right?

3 A No.

4 Q Now when you met with the agents, they interviewed back  
5 you on March 23rd, 2017, right?

6 A Yes.

7 Q You asked them not to come to your home to interview you,  
8 right?

9 A I don't recall that.

10 Q Well, did they interview you at your home?

11 A No.

12 Q And they didn't interview you at their offices, right?

13 A We went to 272 Cadman Plaza. That's where I had the  
14 interview.

15 Q All right. But it did not take place at your home. Isn't  
16 that correct?

17 A No, not at my house.

18 Q And at some point you stop having contact altogether with  
19 Maria. Isn't that correct?

20 A Yes.

21 Q Tell the jury when's the last time you had contact with  
22 Maria.

23 A About two months ago.

24 Q Okay. And you decided to cut off contact or did she  
25 decide to cut off contact?

Cross - Lopez - Ricco

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1 A I wasn't trying to get in touch with her anymore.

2 Q Why?

3 A Because this is -- for me, being a friend, this is why I'm  
4 here today, because I was trying to be friend and this is  
5 leading me into this.

6 Q And you had no idea about her being in jail or anything of  
7 the sort. Isn't that --

8 A No idea.

9 Q This is all way outside of your friendship with her.

10 A Yes. Yes.

11 Q One last question.

12 You know a lady by the name of -- Your Honor, forgive me  
13 -- Larihelys Vargas, right?

14 A Yes, I know her but not in person. It's a friend of hers  
15 by Facebook.

16 Q Okay. You're Facebook friends with her, right?

17 A Yes. Yes.

18 Q And the friend that you and Ms. Vargas have in common is  
19 Maria, right?

20 A Yes.

21 Q And Maria didn't send you a call to say I want you to get  
22 in touch with somebody at the jail on my behalf through  
23 Facebook, did she?

24 A I don't remember that.

25 Q It never happened, right?

Cross - Lopez - Ricco

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1 A No.

2 MR. RICCO: No further questions. Thank you very  
3 much, sir.

4 MS. ARGENTIERI: Thank you, Judge -- or thank you,  
5 sir. You're excused.

6 THE COURT: Okay. You could step down.

7 (Witness excused.)

8 THE COURT: We'll take another very short recess.

9 (Jury exits)

10 (Recess from 4:57 p.m. until 5:06 p.m.)

11 (Jury enters)

12 THE CLERK: Please be seated.

13 CONTINUED CROSS EXAMINATION

14 BY MR. RICCO:

15 Q Sorry, Mr. Lopez. Almost. By the way, did you tell us  
16 the type of work that you do?

17 A I do computer drafting. And also I'm at IT.

18 Q Okay. I think you told us that when you were visiting  
19 Maria at the jail she seemed sad, she seemed desperate, right?

20 A Yes.

21 Q And are you aware if she had ever been in jail before?

22 A No.

23 Q Now in the state that she was in, one of the things that  
24 she did ask you, she asked you for some money; right?

25 A On that, yes, she did. She did ask.

Cross - Lopez - Ricco

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1 Q All right. We'll get there. And the amount of money she  
2 asked you for was \$8,000, right?

3 A I don't remember that.

4 Q I'm going to show you a document and see if it helps  
5 refresh your recollection. 35ML1, fifth paragraph in. Read  
6 that to yourself.

7 (Pause.)

8 A Yes.

9 Q Having read 35ML1, fifth paragraph down, does that help  
10 refresh your recollection that Maria had asked you for \$8,000?

11 A Yes.

12 Q Okay.

13 THE COURT: I didn't -- I didn't hear you?

14 THE WITNESS: Excuse me?

15 THE COURT: I didn't hear you.

16 THE WITNESS: Yes, I remember.

17 BY MR. RICCO:

18 Q Now that was quite an unusual request of you, isn't that  
19 correct?

20 A Yes.

21 Q You're not the type of man that has that type of money  
22 available, isn't that correct?

23 A But the way she -- she asked me, she wanted me to get  
24 friends, family to get the money together. She knew I didn't  
25 have that amount of money to put for her.

Cross - Lopez - Ricco

313

1 Q So she had asked you to go and ask other people to raise  
2 the money?

3 A Yes.

4 Q Did you?

5 A No.

6 Q Why not?

7 A I have other things to do. I have a family. I have a  
8 job. I have a lot of stuff to do.

9 Q Did you go and ask any other people?

10 A No.

11 Q So you didn't do it?

12 A No.

13 Q And I think she told you that it was for a lawyer or  
14 something, right?

15 A Yes.

16 Q And you didn't know if that was true or not, did you?

17 A I wasn't sure.

18 Q But you didn't do it anyway, did you?

19 A I didn't do it.

20 Q Okay. I have no further questions. Thank you very much,  
21 Mr. Lopez.

22 A You're welcome.

23 MS. SHIHATA: Nothing further.

24 THE COURT: All right. You may step down.

25 (Witness excused.)

Cross - "Maria" - Ricco

314

1 (Pause.)

2 CONTINUED CROSS EXAMINATION

3 "MARIA"

4 BY MR. RICCO:

5 Q Good afternoon.

6 A Good afternoon.

7 Q I was asking you some questions about the MDC.

8 A Okay.

9 Q But before I do that, I want to ask you some other  
10 questions if you don't mind. Do you remember -- you have a  
11 friend named Ms. Vargas, Larihelys?

12 A Larihelys. Larihelys.

13 Q Okay. Thank you. And she's the person that you called  
14 and asked to get in touch with Lt. Martinez from Facebook,  
15 isn't that correct?

16 A Yes.

17 Q Did she have a conversation with you where she told you  
18 that she found pictures of other women on his Facebook page?

19 A She described some of the photos to me. Some of the  
20 photos, yes.

21 Q My question was did she say to you that she found pictures  
22 of women on his Facebook page? Either she did or she didn't.

23 A Yes.

24 Q And she described at least one of the women, right?

25 A Yes.



Cross - "Maria" - Ricco

315

1 Q She said she was the -- what did you call it a bottle  
2 blonde?

3 A A pharmacy blonde, like she used peroxide.

4 Q Okay. Right. And that was a description that Ms. Vargas  
5 told you about, right?

6 A Yes.

7 Q And you remember that, right?

8 A Yes. Yes, because -- yes.

9 Q And when you told her to look on his Facebook for  
10 pictures, who did you tell or what did you tell her to look  
11 for?

12 A To look him up.

13 Q And to look at pictures of what?

14 A I told her to look up -- to look up Lt. Martinez. Look  
15 him up. Look him up. And I asked her a couple of questions  
16 like how does he dress, who is he with. And she said, well,  
17 there's a picture of him dancing. She described a few things  
18 about him.

19 Q Did you ask him -- her to look for photographs of him with  
20 women on Facebook, yes or no?

21 A Yes.

22 Q And when you were interviewed by SIS Officer Rodriguez,  
23 you told Officer Rodriguez that you asked her to find out if  
24 Lt. Martinez was married, didn't you?

25 A I don't remember that.

Cross - "Maria" - Ricco

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1 Q Okay. You remember that Ms. Vargas asked you some  
2 questions about why you wanted her to do it, right?

3 A Yes. Yes.

4 Q You really didn't tell her why, did you?

5 A No.

6 Q She asked you does he kiss you? Did she ask you that?

7 A I don't know how we got to that topic of conversation.

8 Q Well, did you get to that topic of conversation?

9 A Yes.

10 Q So did Ms. Vargas ask you do you kiss him?

11 A I don't remember if she -- I don't remember how we got to  
12 that conversation. I know when she asked me -- oh, I don't  
13 remember how we got to that topic of conversation.

14 Q Okay. I'm going to ask you a question if you recall --

15 MR. RICCO: I'm sorry, Your Honor.

16 BY MR. RICCO:

17 Q Okay. I'm going to show the witness -- I'm going to be  
18 referring to 35M7A, page 65, line 25 -- line 21. Do you recall  
19 testifying in a prior proceeding under oath?

20 A Yes.

21 Q Do you recall being asked this question and giving these  
22 answers?

23 "Question: When you called your friend,  
24 Larihelys Vargas, did you use a slang term to refer  
25 to or describe something about what Lt. Martinez had

Cross - "Maria" - Ricco

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1           been doing to you?

2                   Answer: Yes."

3           Do you remember giving that testimony under oath?

4 A       Yes.

5 Q                   "Question: What do you remember telling her?

6                   "Answer: I don't remember exactly what I said  
7           to her, but I do remember what she was saying to me  
8           in response. She would say does he kiss you? I'd  
9           go, yeah, all the way. So I went, yeah, look him up.  
10          Look him up."

11          Do you remember giving that -- being asked those questions  
12 and giving those answers under oath?

13 A       Yes. Because that conversation -- I don't remember how we  
14 got to that. She said all the way? I said, yeah. And she  
15 said chiqui, chiqui? And I said, yes. I don't remember how we  
16 got to that conversation here, but I know that she understood  
17 what we were talking about.

18 Q       So you do remember the conversation?

19 A       I remember the conversation, but I don't remember how we  
20 got to that point; what the question was, what the answer was.

21 Q       Nobody's asking you anymore how you got to that point  
22 because we know you don't know. I want to focus in at that  
23 point. And at that point, do you recall her asking you  
24 something about chiqui, chiqui?

25 A       Yes.

Cross - "Maria" - Ricco

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1 Q That was her words or your words?

2 A Hers. She said that.

3 Q And when I asked you the questions and read the --

4 A She said all the way?

5 Q When I asked you the -- when I asked you the questions and  
6 the answers that you gave under oath, were those questions  
7 given to you -- were those answers truthful?

8 A What?

9 Q I'm asking you the following question. Do you remember  
10 these questions and giving these answers under oath?

11 "Question: What do you remember telling her?

12 "Answer: I don't remember exactly what I said  
13 to her, but I do remember what she was saying to me  
14 in response. She would say does he kiss you? I go,  
15 yeah. All the way? So I went, yeah. Look him up.  
16 Look him up."

17 Do you recall giving that answer under oath, yes or no?

18 A Yes.

19 Q I want to go back to the MDC. When you were at the MDC,  
20 there was a woman there named Ingrid, correct?

21 A Yes.

22 Q And Ingrid was involved in sexual relations with two  
23 different staff people at the MDC, correct?

24 A Can you call that relations?

25 Q I'll rephrase the question. Ingrid was having sex with

Cross - "Maria" - Ricco

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1 two men at the jail, correct?

2 A Yes.

3 Q One was the chief of the commissary, right? And the other  
4 one was a guard, an older man, right?

5 A Yes. Excuse me. When a person has relations -- when a  
6 person is raped, can you call that relations?

7 Q I don't. So let's get back to my question. Okay?

8 The question is there were two different guards involved  
9 with sex with Ingrid, correct?

10 A Yes.

11 Q One was the commissioner chief of the commissary, right?

12 A Yes.

13 Q And the other one was just a regular guard, regular CO,  
14 right?

15 A Yes.

16 Q She complained to the chaplain, isn't that right?

17 A Yes. That's what I heard.

18 Q Well, you were angry because she didn't complain about  
19 both of them, weren't you?

20 A Yes. Because if one of them raped her, why didn't she  
21 name them both?

22 Q You were angry about that, right?

23 A That wasn't my business.

24 Q 3500M4, please.

25 MS. SHIHATA: My only objection is that the witness

Cross - "Maria" - Ricco

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1 did not indicate she didn't remember in response to the  
2 question.

3 MR. RICCO: I wasn't going to ask for her to be  
4 refreshed.

5 BY MR. RICCO:

6 Q Do you recall meeting with the agents and telling the  
7 agents that you were angry that she didn't report both men, yes  
8 or no?

9 A Yes.

10 Q You were aware that if an inmate had a complaint about any  
11 type of sexual misconduct a report could be made to the  
12 chaplain?

13 A Yes. But then she went to the SHU.

14 Q I know, you keep telling us that. But my question is were  
15 you aware that a complaint could be made to the chaplain?

16 A Yes.

17 Q And that action would be taken, correct?

18 A Yes.

19 Q Let's talk about your days at MDC. Yesterday and today  
20 you told us about being forced and threatened into sexual acts  
21 by fear at the hands and words of Lt. Martinez, correct?

22 A Yes.

23 Q You also stated that you didn't tell anyone other than the  
24 women that you were incarcerated with at the MDC, correct?

25 A Yes.

Cross - "Maria" - Ricco

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1 Q One such woman was Danilda, right?

2 A Yes.

3 Q And when you told her that you were being forced and  
4 threatened into sex by fear at the hands and words of Lt.  
5 Martinez, her response was you should be happy that you're  
6 getting some dick in jail. You're a grown woman. That's what  
7 you told us yesterday.

8 A I didn't give details to any of them. I said that bastard  
9 penetrated me and he didn't care whether or not I was bleeding.

10 Q So let's just be clear about this. Are you telling the  
11 jury that you did not tell the other women in jail that Lt.  
12 Martinez forced you into an act where he penetrated you?

13 A Yes. I told them. I was desperate. I was crying. But  
14 none of them understood. I just said that bastard penetrated  
15 me. Because Nani took it like a joke. And the young girl took  
16 it as a joke as well. LaMenore took it as a joke as well.

17 Q Okay. So when you were asked all of those questions over  
18 all of these hours about being pinned down and held down, those  
19 were not facts that you shared with the women that you were  
20 incarcerated with?

21 A Yes.

22 Q You did tell them?

23 A I did tell them. I told the three of them that.

24 Q Okay. So you decided I'm not going to tell the chaplain  
25 about it at MDC, correct?

Cross - "Maria" - Ricco

322

1 A Excuse me?

2 Q You decided not to tell the chaplain?

3 A No.

4 Q And there were female officers in and around your unit,  
5 correct?

6 A Very few.

7 Q Lt. Metzger? African-American lady?

8 A Oh, her? She was --

9 Q She was what?

10 THE INTERPRETER: May the interpreter just inquire?

11 THE WITNESS: She was the last one I was going to  
12 tell that to.

13 BY MR. RICCO:

14 Q You didn't tell any of the female staff at MDC the stuff  
15 that you said to the women at the jail?

16 A No.

17 Q Did MDC have a therapist?

18 A I don't even know. I guess so. All jails do. I never  
19 went to see one.

20 Q Is that no, I didn't, or no, I didn't know if they had  
21 one?

22 A I never went.

23 Q But MDC has a therapist, isn't that correct?

24 A Yes. I guess.

25 Q Well, in your asylum petition, isn't one of the things



Cross - "Maria" - Ricco

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1 that you said that you got at the jail was therapy?

2 A Yes. I went in Manhattan for therapy. When I went to  
3 Brooklyn, my therapist was the case manager.

4 Q Okay. So you were aware that if you had a problem you  
5 could go to see a therapist because you had done it in  
6 Manhattan, right?

7 A But I did not want -- me, I did not want any problems. I  
8 wanted to get out of that place. I just wanted to get out. I  
9 didn't want to get into any trouble. I didn't want to go to  
10 the SHU. I just wanted to get out of there.

11 Q Okay.

12 A I didn't want to lose my good time.

13 Q I'm going to talk about losing good time, but I'm going to  
14 ask you a question. You had a choice between going to the SHU  
15 and being raped over and over and over and over again and you  
16 chose rape over going to the SHU, is that your testimony?

17 A I didn't want to get more time. I just wanted to get out  
18 of there.

19 Q Let's talk about -- let's talk about -- let's talk about  
20 losing good time.

21 A And get more time? You're forgetting that it would have  
22 meant to get more time.

23 Q And you keep telling us that and we got that, but my  
24 question is, do you know what good time is? That's the  
25 question that's on the table.

Cross - "Maria" - Ricco

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- 1 A Yes.
- 2 Q In order for you to have good time, you have to have good  
3 conduct in prison?
- 4 A Yes.
- 5 Q And there are institutional rules that every detainee and  
6 inmate must follow, isn't that correct?
- 7 A Yes.
- 8 Q And if you break those rules, you're entitled to a  
9 disciplinary hearing, correct?
- 10 A Yes.
- 11 Q And if after the hearing they find that you violated the  
12 rule, you lose your good time?
- 13 A Yes.
- 14 Q And so in order for you to lose your good time, you would  
15 have had to have been doing something in violation of the  
16 institutional rules, correct?
- 17 A Yes. That's why I would tell that little bastard why it  
18 was unfair for me to get more time. And I asked Odis a  
19 thousand times. I asked her. Odis had been in jail for 15  
20 years. She told me that some woman in Danbury got more time.
- 21 Q We're going to talk about the person in Danbury. Right  
22 now we're talking about you. The only way you could lose your  
23 good time would be if you did something wrong, not if he did  
24 something wrong, right?
- 25 A You automatically go to the SHU.

Cross - "Maria" - Ricco

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1 Q That's not my question. My question is not where you go.  
2 My question is the only way you lose your good time credit --  
3 we're not asking you where you go -- but the only way you lose  
4 your good time credit is that after a hearing it is determined  
5 that you did something wrong, right?

6 A Yes.

7 Q And one of the things that you, you are not allowed to do,  
8 or any inmate, is not supposed to have sexual contact with  
9 anyone, staff, inmates, COs, isn't that correct?

10 A Did you forget that I had hit him?

11 Q I'm going to ask the question again. And by the way, did  
12 you forget the question that I asked you?

13 A Could you repeat it?

14 Q One of the institutional rules on which you would lose  
15 your good time credit would be if you were involved in sexual  
16 contact with staff, inmates, CO's, correct?

17 A Yes.

18 Q And you would be entitled to a hearing on that, correct?

19 A Yes.

20 Q Another institutional rule?

21 A But in the meantime, you're in the SHU for a month until  
22 that person comes or who knows for how long.

23 Q But you can't get raped in the SHU, right? Right?

24 A Yes.

25 Q Another institutional rule that would cause you to lose

Cross - "Maria" - Ricco

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1 your good time credit is for you to be making contact through  
2 Facebook, emails and telephone to staff, isn't that correct?

3 A I didn't know that. What was that?

4 Q Didn't SIS Officer Rodriguez tell you that you were not  
5 supposed to be Facebooking and trying to find out information  
6 about staff? Did SIS Officer Rodriguez tell you that, yes or  
7 no?

8 A Yes.

9 Q So you do know? Right?

10 A I didn't really understand your question just now, that's  
11 why I asked.

12 Q That's the reason why you told your friend, Ms. Vargas, to  
13 unfriend me before you contact Lt. Martinez, right?

14 A Yes.

15 Q And isn't it true -- now on direct examination, you said  
16 you told her and gave her email address carlosrichmartinez@  
17 either Hotmail or Gmail, right? That was your testimony in  
18 response to the Government's questions, right?

19 A Yes. I gave her his email address.

20 Q The truth is that you gave Lt. Martinez's name in a coded  
21 way, isn't that correct?

22 A What do you mean in code? I gave her his name.

23 Q You gave -- sorry, ma'am.

24 A I told her -- I gave her his email address.

25 Q Who is Martinez F. Carlos? Have you ever heard that

Cross - "Maria" - Ricco

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1 before?

2 A I don't know.

3 Q In your asylum petition you say that when you were in MCC  
4 you were so distraught you couldn't get out of bed, that you  
5 were crying and you were depressed, right?

6 A When I was where?

7 Q In the asylum -- at the MCC?

8 A When I first got arrested at the MCC?

9 Q Yes.

10 A Yes. My dad had that thrombosis.

11 Q But didn't you say in your asylum petition that the reason  
12 why you were crying and depressed was from the fear and terror  
13 that Deyberto has caused you after 13 years? Isn't that what  
14 you said in your asylum petition?

15 A Yes. Why do you think that my father had that thrombosis?

16 Q And you were so distraught that it was the other women  
17 that brought your condition to the attention of the therapist,  
18 isn't that right?

19 A Yes. That's what she said to me when she came to see me.

20 Q Because you didn't ask for --

21 A It's okay, you can continue.

22 Q None of the women at the MDC after you told them that you  
23 were forced and threatened and raped over and over and over  
24 again, none of the women in your unit reported it to anyone?

25 A No. What they said was we're about to get out of here.

Cross - "Maria" - Ricco

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1 Let's just -- let's just put this in our past.

2 Q So you got together with the other women and figured out a  
3 way to deal with the situation?

4 A Not to talk about it. Melva left. She wasn't there very  
5 long, maybe two weeks more. She said don't tell anybody that.  
6 Just stay here. We're at the end. We're almost finished.

7 Q You told us yesterday that one of the reasons why you  
8 didn't report the force and the threats is because you didn't  
9 want to report it to anybody that was under Lt. Martinez's  
10 command? Isn't that what you told the jury yesterday?

11 A Yes. What I didn't want was --

12 Q You didn't want to go to the SHU?

13 A I didn't want any problems. I kept telling him that. I  
14 don't want to get into trouble.

15 Q Yesterday -- yesterday, you told the jury that the reason  
16 why you didn't want to give a complaint, you didn't want to  
17 give a complaint to anyone that was under Lt. Martinez's  
18 command. Did you say that to the jury yesterday? That's a yes  
19 or no.

20 A Yes.

21 Q The chaplain is under whose command?

22 A After the lieutenants -- you have the captain and then  
23 comes the lieutenants. That's my understanding.

24 Q My question was the chaplain is under whose command?

25 A The lieutenants. The lieutenants have everybody who work

Cross - "Maria" - Ricco

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1 there under their command I guess.

2 Q So it's not your understanding that the chaplain responds  
3 to God?

4 A Oh. Yes. But Christian or whatever religion he was.

5 Q And you didn't put your faith in the chaplain, did you?

6 MS. SHIHATA: Objection.

7 THE COURT: What's the question?

8 MS. SHIHATA: I objected, Your Honor. This is --

9 THE COURT: Oh, I'm sorry. I didn't hear you.

10 MS. SHIHATA: This appears to be argumentative to me.

11 THE COURT: Overruled.

12 THE INTERPRETER: Your Honor, the interpreter has  
13 forgotten the question.

14 BY MR. RICCO:

15 Q That's okay. I'll ask it again. You didn't put your  
16 faith in the chaplain, did you?

17 A No.

18 Q When you were approached by Lt. Rodriguez about your  
19 telephone call, you didn't tell him about force, threats for  
20 sex, isn't that correct?

21 A Yes. All I said to him, he is a pig. I didn't tell him  
22 that he was raping me. No. I did not tell him that. And when  
23 I asked him if I could get into trouble, he said yes.

24 Q And he explained to you why you would get into trouble,  
25 didn't he? Didn't he?

Cross - "Maria" - Ricco

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1 A Because I spelled out his name. Because I was talking  
2 about a lieutenant.

3 Q You were trying to find out information about a  
4 lieutenant, that's what you were doing? You were trying to  
5 find out information about the lieutenant, that's what you were  
6 doing?

7 A But that was the information he gave me.

8 Q You were not allowed to be trying to get information about  
9 Lt. Martinez from Facebook or any other place and that's what  
10 SIS Officer Rodriguez said would get you into trouble?

11 A Yes.

12 Q He did tell you that? That's a question.

13 A Rodriguez did not focus on -- he just kept saying problems  
14 to me. He didn't explain it to me the way you're explaining it  
15 to me.

16 Q Okay. He asked you did you like Lt. Martinez? Do you  
17 understand that question?

18 A Yes, I understand it.

19 Q Did Officer Rodriguez ask you, Maria, did you like Lt.  
20 Martinez?

21 A I really don't remember if he asked me that.

22 Q I think what you told the jury yesterday -- and if I'm  
23 wrong, correct me -- is that you felt Officer Rodriguez  
24 wouldn't help you? He would cover it up.

25 A What did you just say?



Cross - "Maria" - Ricco

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1 Q That Officer Rodriguez wouldn't help you and he would  
2 cover it up?

3 A What did you say?

4 Q I think you told the jury yesterday that one of the  
5 reasons why you did not tell SIS Officer Rodriguez about the  
6 threats and the force and the rapes is because you thought and  
7 believed that Officer Rodriguez would cover it up?

8 A Yes. Even though I knew he could help me. He said to me  
9 I can help you. That's why I took this case.

10 Q Are you aware of whether or not Officer Rodriguez, in  
11 fact, reported this incident to a supervisor? Are you aware of  
12 that?

13 A No. I don't know. He told me he was going to tear up  
14 those papers. He promised me he was going to tear up those  
15 papers.

16 Q And you thought he would cover it up though, right?

17 MS. SHIHATA: Objection. Asked and answered.

18 THE COURT: Let's have it one more time.

19 THE WITNESS: What was that?

20 BY MR. RICCO:

21 Q And you thought that Officer Rodriguez would cover it up,  
22 didn't you?

23 A Well, that he wasn't going to -- yes.

24 Q And that's -- as an SIS officer, were you aware of whether  
25 or not Officer Rodriguez was obligated to report this incident

Cross - "Maria" - Ricco

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1 to his supervisors, yes or no?

2 A He could do that.

3 Q And you don't know if he did, do you?

4 A No. I guess he didn't because nobody ever asked me about  
5 it again.

6 Q I think you told Officer Rodriguez with respect to  
7 contacting Lt. Martinez you would prefer to forget the whole  
8 thing. Isn't that what you said to him?

9 A Yes. I said not to talk about it again. I didn't want  
10 any problems.

11 Q You also said that SIS Officer Rodriguez asked you about  
12 your immigration status, right?

13 A Yes. He said to me you're about to get out of here,  
14 right? I said, yes. But from here you're going to  
15 immigration? And I said, yes. And I said to him could I have  
16 problems there because of this? And he said, yes, of course.

17 Q So your testimony to the jury is that Agent Rodriguez had  
18 a conversation with you where he told you your problems can  
19 follow you to immigration?

20 A Yes.

21 Q Okay. At immigration, I have a series of questions from  
22 immigration. It was only after you were at immigration that  
23 you reported the force, the threats and the allegations against  
24 Lt. Martinez, correct?

25 A Yes.

1 Q And two of the people that you were locked up with at MDC,  
2 you were also locked up with at immigration, right?

3 A One of the people.

4 Q Who's Melva Vasquez?

5 A My friend. But she was hardly there. She was maybe there  
6 a month after I got there. Those agents came to see me in  
7 December.

8 Q I didn't ask you about agents coming to see you. I asked  
9 you about whether or not two of the women that you were locked  
10 up with at MDC were also locked up with you in immigration  
11 custody? That's the question.

12 A Yes.

13 MR. RICCO: Judge, this would be a good place to  
14 stop.

15 THE COURT: Okay.

16 MR. RICCO: Yeah.

17 THE COURT: We'll recess until tomorrow at 10  
18 o'clock.

19 (Witness excused for the day.)

20 THE COURT: Remember what I told you about staying  
21 away from social media and talking about it.

22 (Jury exits.)

23 THE COURT: I think they're all sent down. Do you  
24 want to come up for a couple -- for a minute.

25 MS. ARGENTIERI: Judge, I've been -- there's some

1 individuals leaving, and I've been advised by people present in  
2 the back of the courtroom that during this witness's testimony  
3 they've been speaking out audibly, making noises, faces, in a  
4 very loud way. I just ask that you direct them to the extent  
5 that they're coming back tomorrow to just behave in accordance  
6 with where we are.

7 THE COURT: Why don't you remind me in the morning.

8 MS. ARGENTIERI: I'm sorry?

9 THE COURT: Why don't you remind me in the morning  
10 because I think some people have left.

11 MS. ARGENTIERI: I will, Judge. Okay.

12 THE COURT: Not that my hearing is the best, but I  
13 didn't hear anything. And I think the witness is not really  
14 looking. She's --

15 MS. ARGENTIERI: I'm more concerned --

16 THE COURT: The witness -- the witness is really  
17 focused on the interpreter.

18 MR. RICCO: Well, Judge, I'm between them and the  
19 jury. I didn't hear any of it. If they're making faces, that,  
20 I don't know because I can't see. But I didn't hear audible  
21 sounds coming past me. If I had, I would have stopped the  
22 proceedings --

23 THE COURT: Okay.

24 MR. RICCO: -- because that's no benefit to me at all  
25 for people to do that.

1 THE COURT: Certainly not during your cross.

2 MR. RICCO: Right. Definitely not during the cross.

3 MS. ARGENTIERI: And I'm concerned about the witness,  
4 but also the jurors, Judge. I can only tell you what sort of  
5 was reported to me.

6 THE COURT: All right. I will do it.

7 MS. ARGENTIERI: Thank you.

8 THE COURT: You will remind me first thing in the  
9 morning.

10 MR. RICCO: And, Judge, I have no objection to you  
11 instructing the jury. But I will tell you I didn't hear  
12 anything going past me. And I'm concerned about the jury also.

13 THE COURT: Let me ask you in terms of scheduling  
14 where we are in this case?

15 MS. ARGENTIERI: Judge, we still have a great number  
16 of witness left to go. We will have a very busy day tomorrow.

17 THE COURT: I can't hear you. I'm sorry. Could you  
18 speak up?

19 MS. ARGENTIERI: Sorry, Judge. I said we have a  
20 great number of witnesses left to go. I think we weren't  
21 expecting Maria to take quite as long as you know from my  
22 misrepresentations to you.

23 So I would ask -- I know the Court did not want to  
24 sit on Friday, but I think that if we did sit on Friday, the  
25 Government would complete its case on Friday.

## Proceedings

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1 (Court and the clerk confer.)

2 MS. ARGENTIERI: I would just think that getting the  
3 testimony --

4 MR. RICCO: I'm good. If the judge can do it, I want  
5 to work.

6 THE COURT: I can do it.

7 MS. ARGENTIERI: Because Monday is a court holiday.

8 THE COURT: No, I know. Well, it's a national  
9 holiday, but -- I don't mind sitting on Friday.

10 MR. RICCO: I don't mind either, Judge. I have no  
11 objection to it.

12 THE COURT: And how do you -- it's always a well kept  
13 secret, but do you intend call any witnesses? They want to sit  
14 on Friday.

15 THE CLERK: (Indiscernible)

16 THE COURT: Yeah. Okay.

17 MR. RICCO: I hope not.

18 THE COURT: Okay. Well, if you don't have any  
19 witnesses, then we'll have summations on Tuesday.

20 MR. RICCO: I think that that's a real possibility,  
21 Judge.

22 THE COURT: Okay.

23 MS. ARGENTIERI: Have a good night.

24 MR. RICCO: Thank you, very much, Your Honor.

25 (Proceedings adjourned at 6:04 p.m.)

1 I, LINDA FERRARA, Certified Electronic Transcriber,  
2 certify that the foregoing is a correct transcript from the  
3 official electronic sound recording of the proceedings in the  
4 above-entitled matter.

5  
6 

7 \_\_\_\_\_ January 10, 2018

8 Linda Ferrara, CET-656  
9  
10

11 I, CHRISTINE FIORE, Certified Electronic Court Reporter  
12 and Transcriber, certify that the foregoing is a correct  
13 transcript from the official electronic sound recording of the  
14 proceedings in the above-entitled matter.

15  
16 

17 \_\_\_\_\_ January 10, 2018

18 Christine Fiore, CERT-410  
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